Commentary
March 2002

# Back to Politics as Usual?
*Daniel Casse*

## With God in Baton Rouge
*Jennifer Moses*

## Sex and the Marriage Market
*James Q. Wilson*

## Socialism's Last Stand
*Joshua Muravchik*

## Retrying the Rosenbergs (Again)
*Mark Falcoff*

## The Great American Songbook: Part 2
*Terry Teachout*

CONTROVERSY

## "Bush v. Gore" and the Conservatives
*Gary Rosen & Critics*

**Books in Review**

*Dan Seligman • Aleksa Djilas • Richard M. Sudhalter*
*Jacob Heilbrunn • Terry Eastland*

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# A Clear Connection:

# School Choice Helps Public Schools

*The following editorial appeared in the* Milwaukee Journal Sentinel *on January 22, 2002, following the release of "Milwaukee's Public Schools: The Untold Story of America's Newest Democratic Revolution," by Milwaukee Public Schools Board member John Gardner.*

Foes of the school voucher program in Milwaukee said it would spell the death of public education. But guess what? Since the advent of choice, the vital signs of the Milwaukee Public Schools have grown stronger, not weaker.

A choice backer, Milwaukee School Board member John Gardner, makes that case in a report released Monday. Contrary to the dire predictions, the trend lines have been heading upward for enrollment, state aid, the total budget and academic performance in MPS, Gardner notes in the report.

As if to underscore the point, the School Board recently got — for the first time — an optimistic report on its policy of ending social promotion from middle school to high school. The share of ninth-graders making it to the next level has risen markedly.

**Parental School Choice is Widespread — Unless You're Poor.**

Gardner argues - and we concur - that many of the improvements in MPS came about in part because of the controversial policy of applying public funds to tuition at private schools for low-income students, not despite the policy. In fact, the link between school choice and MPS improvement seems so obvious that its denial strikes us as reflecting a stubborn unwillingness to concede that anything good can come from vouchers.

A recognition of the link does not belittle the vital role reformers play within MPS. It's just that the competition strengthens their hands. The change within the Milwaukee Teachers' Education Association is a prime example. The union used to oppose reform proposals at virtually every turn. But the expansion of choice helped to empower the progressive wing of the MTEA. As a result, the union has become much more open-minded about reform, even bending on its strict requirement of filling vacancies on the basis of seniority.

Of course, with its low graduation rates, MPS is nowhere near where it ought to be, as Gardner notes. But choice has put the school system closer to where it ought to be than it would be otherwise.

*The Gardner report is posted under Hot Topics at www.SchoolChoiceInfo.org.*

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COMMENTARY (ISSN 0010-2601) is published monthly (except for a combined July-August issue) by the American Jewish Committee. EDITORIAL AND BUSINESS OFFICES: 165 East 56th Street, New York, NY 10022. Telephone: (212) 751-4000. Fax: (212) 891-6700. Unsolicited manuscripts must be accompanied by a stamped, self-addressed envelope. Letters intended for publication may be edited. Single copy is $4.50; $45 a year, 2 years $79, 3 years $109. Add $11.00 per year for subscriptions to Canada and Mexico, $19.00 for all other foreign destinations. Periodicals postage paid at New York, NY and additional mailing offices. **POSTMASTER:** Send address changes to COMMENTARY, 165 East 56th Street, New York, NY 10022. Copyright © 2002 by the American Jewish Committee; all rights reserved under International and Pan American Copyright Conventions. Indexed in *Reader's Guide*, *Book Review Digest*, and elsewhere. Available in reference systems produced by ProQuest (800) 521-0600 and the Gale Group (800) 877-4253. U.S. newsstand distribution by Eastern News Distributors Inc., 1130 Cleveland Rd., Sandusky, OH 44870. Printed in the U.S.A.

WEBSITE: www.commentarymagazine.com

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Commentary
March 2002

# Letters from Readers

## Mind & Matter

To the Editor:

Paul R. McHugh's "Romancing Depression" [December 2001] skillfully reveals the dangerous imprecision and lack of critical discrimination of Andrew Solomon's much-touted *Noonday Demon: An Atlas of Depression*. But Dr. McHugh's own historical account of how the importance of morality became recognized in psychiatry, and his picture of the current role of psychotherapy within the profession, both demand scrutiny.

Contrary to Dr. McHugh, long before Otto Kernberg's work in the 1970's, many others had recognized the tendency for psychiatric treatment to help people feel better by removing justified guilt over past misconduct, thus condoning future misconduct. Thomas S. Szasz's *The Myth of Mental Illness* (1960) attacked the psychiatric redefinition of misconduct as "mental illness," claiming that this undermined personal responsibility. And Aaron Beck's "cognitive therapy" had for decades recognized the importance of moral standards.

More important is Dr. McHugh's omission of the most profoundly harmful recent change in psychiatry: the almost total abandonment of psychotherapy in favor of drug treatment. In *Out of Its Mind: Psychiatry in Crisis* (reviewed by Kevin Shapiro in the January Commentary), J. Allan Hobson and Jonathan A. Leonard maintain, rightly, that the field's greatest problem is the profound gap between "biomedical treatment" and "humanistic therapy." They point out how psychiatrists remaining in the health-care system have been transformed into "pill-pushers who hardly speak with patients."

Dr. McHugh's claim of major advances in the identification and treatment of the two major mental illnesses, manic-depression and schizophrenia, is undercut both by the increasing number of patients who continue on drugs and, at least for schizophrenia, by the steady worsening of treatment results over the past three decades. Most of the "empirical studies of mental illness and its treatment" praised by Dr. McHugh involve short-term drug administration. Follow-up studies years after the initial illness show, with respect to schizophrenia, that all the patients who recover fully have stopped taking medication.

Paul McHugh is correct that the "essential moral vision of human responsibility" is absent from Andrew Solomon's ruminations on depression. But his own omissions reduce the value of his critique.

Nathaniel S. Lehrman, M.D.
*Roslyn, New York*

To the Editor:

Paul R. McHugh brings to light certain elements in the progress of psychiatry over the last several decades, but he creates distortions along the way. First, his characterization of "dogmatic" Freudianism ("with its guilt-assuaging visions . . . and its view that Oedipal anxiety explains all mental disorder") is sweepingly simplistic. Nobody would deny that Freudianism had its heyday, but it is unfair to suggest that serious mental-health practitioners were blithely slotting everything into their Freudian paradigms with unquestioning complacency, especially where schizophrenia was concerned. Had that been the case, people like Otto Kernberg would not have struggled to find new approaches.

Dr. McHugh's characterization of Kernberg's contribution is also misleading. The idea that a therapist could "force" a "borderline" patient—that is, one who, in Dr. McHugh's words, displays "a pervasive pattern of emotional and behavioral instability"—to do anything is



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extremely wishful. The innovation to which Kernberg lays claim is in identifying the borderline personality as a separate entity requiring a specialized approach. This did not, as Dr. McHugh claims, "liberate therapists from their own permissiveness." It merely shifted the emphasis of their interpretive work from fantasy and the unconscious to the here and now, and entitled them to direct the patient to consider the impact of his own behavior.

Finally, it seems that Dr. McHugh confuses therapeutic neutrality with permissiveness. In the consulting room the therapist may try not to be judgmental about a patient's adulterous behavior, and this may well result in the adultery's going unchecked. But this does not mean, as Dr. McHugh puts it, that the therapist "tolerates" adultery or any other "self-indulgent, aggressive, and impulsive behavior." Rather, the therapist believes that, before coming to a conclusion, it is necessary to look at the behavior as a symptom and understand more about it. This sidesteps the problem of morality but does not make psychotherapy more culpable than any other agent in our culture.

ROBIN ROGER
*Toronto, Ontario*

TO THE EDITOR:

I appreciate much of what Paul R. McHugh has written, but his "Romancing Depression" contains more romance than fact. Although psychiatry is considered one of the "medical disciplines," it should not be considered science. Dr. McHugh claims that Freudianism has been "replaced by . . . empirical studies." But where are the biopsies, the blood tests, the x-rays—where, in short, is the hard science that would prove to us "the biomedical nature" of depression? He argues that depression is "like epilepsy." I can demonstrate a seizure with an abnormal EEG reading. What objective test can demonstrate depression?

CAROL K. THARP, M.D.
*Winnetka, Illinois*

TO THE EDITOR:

Paul McHugh provides a needed antidote for much sloppy thinking and writing about depression. But the distinction he makes between the person and the disease is a bit too neat. Dr. McHugh writes: "In depression, just as in any illness, including cardiac disease and cancer, 'you' and 'it' do exist together. You do not cause or control the disease, but you may make the expression of it stronger and weaker, the treatment of it easier or harder."

I agree, but, along with varying degrees of genetic vulnerability, a sedentary lifestyle and a high-fat diet operate as causes in cardiac disease, just as smoking does in lung cancer. So, too, certain habitual attitudes and behavior, as well as perceived environmental deficiencies and traumatic life experiences, can operate as contributing causes of depression. Once the "it" develops, it is indeed a disease and, with minor variations, behaves stereotypically; but the "it" can, and often does, emerge from the "you."

BERNARD MACKINNON
*Yarmouth, Maine*

PAUL R. MCHUGH writes:

As its title implied, my essay was not a discourse on morality but an effort to describe the historical turn in psychiatric assessment and treatment that began in the 1970's: a turn away from fantasy and toward realism. That this enlightening move exposed moral as well as clinical lapses in prior psychiatric thought and practice simply indicates that morality, like health, is a part of the real world, and will be forsaken when realism itself is forgone.

Thus, in response to Nathaniel S. Lehrman, I do not deny that other psychiatrists before Kernberg had seen the "condoning" features of psychotherapy. So had many laymen, and perhaps none better than Stephen Sondheim in the patter song, "Gee, Officer Krupke" from *West Side Story*, wherein a gang of punks proclaims, "We ain't no delinquents, we're just misunderstood." Kernberg, however, was first among psychoanalysts in demonstrating how to address this condoning of misbehavior.

All of us hate the reflexive medicating of patients who suffer from manic-depression and schizophrenia, but Dr. Lehrman seems to have forgotten how these patients were neglected therapeutically before the discoveries of lithium and chlorpromazine. Robin Roger appears to have a similar memory lapse, denying any past "slotting" of schizophrenics. During the Freudian "heyday," schizophrenic patients were indeed slotted, and some of them were shoved, squeezed, and slammed into overcrowded and foul snake pits.

On the matter of "therapeutic neutrality," whatever the therapists cited by Robin Roger may have believed they were transmitting to their patients, in practice their "neutrality" amounted to permissiveness—as realists like Kernberg ultimately made clear. Realistic therapists today do indeed "force" narcissistic, borderline patients to "take responsibility" for their feelings and behaviors—if they hope for recovery.

As Carol Tharp well knows, the empirical studies suggesting that manic depression is a disease are fragmentary; but exactly the same kind of studies first indicated that epilepsy was a brain disease and not a supernatural visitation. What sort of work is being conducted? Among other things: demonstrating the hereditary nature of many examples of manic depression; replicating its symptoms by means of such measures as depleting the brain's biogenic amines; showing how it is provoked by brain injury (particularly stroke); and linking it clearly in some cases to DNA markers on chromosome 18.

I agree with Bernard MacKinnon that diseases are often provoked or worsened by personal behavior; venereal disease is the most obvious example. I thought I had made that clear in my essay. But something else should be equally clear: risk factors that promote, strengthen, or weaken the manifestations of a disease are distinct in nature from *causes*—i.e., necessary and sufficient factors. As the butter-and-egg diet of many healthy Frenchmen attests, a high-fat diet is not the cause of heart disease; by the same token, exercise is no certain cure of it, as the death by cardiac arrest of the running guru, James Fixx, tragically demonstrated.



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## Movie Music

TO THE EDITOR:

Though I cannot fathom what led Terry Teachout to write on Miklós Rózsa more than five years after the composer's death, his article ["The Double Life of Miklós Rózsa," December 2001] is nevertheless a welcome addition to the literature on one of the 20th century's great artists.

I must take exception, however, with Mr. Teachout's assertion that Rózsa was dismissive of nearly all of his Hollywood colleagues. Rózsa's admiration for the Czech-born American composer Erich Wolfgang Korngold (1897-1957) was boundless, and his opinion of many others laboring in movie-studio music departments was more than respectful. These included such gifted musicians as Franz Waxman, Elmer Bernstein, MGM music director Johnny Green, and a young pianist and composer named André Previn.

Moreover, Mr. Teachout is inaccurate in his portrayal of Rózsa's friend, George Antheil (1900-59), as a "more pliable composer." Antheil, whose autobiography was titled, tellingly, *Bad Boy of Music*, was anything but pliable. Rózsa related in his own memoirs that Antheil once pulled a pistol on his audience at a piano recital, demanding that they stop laughing at his music. Had Antheil been more accommodating of musically conservative and ignorant studio music directors, he would undoubtedly have written more than the relative handful of film scores in his résumé.

A. LEE HERN
*Los Angeles, California*

TO THE EDITOR:

Terry Teachout's article on Miklós Rózsa was, as usual, profound and well researched, and deserved by this marvelous composer. But Mr. Teachout fails to mention the most challenging and innovative film Rózsa ever had anything to do with, as well as one of the best: Alain Resnais's *Providence* (1977), starring the late Sir John Gielgud. Rózsa also incorporated his 1956 Violin Concerto into the score for the underrated Billy Wilder film, *The Private Life of Sherlock Holmes* (1970), which featured, I believe, the composer's single on-camera appearance, conducting in London's Albert Hall.

DAN BATES
*Lancaster, Texas*

TERRY TEACHOUT writes:

I thank A. Lee Hern and Dan Bates for their letters. I did not quite say, however, that Miklós Rózsa was "dismissive of nearly all of his Hollywood colleagues." In fact, the passage from Rózsa's autobiography to which I was referring specifically addressed the state of Hollywood film music in 1939, when Rózsa first arrived in the United States. The situation changed greatly after that—in no small part because of his example.

As for George Antheil, I was once again referring only to his work for Hollywood. He may have been a "bad boy of music" in the 20's, but it is startling to hear his bland, unmemorable scores for such powerful movies as, say, Nicholas Ray's stark film noir, *In a Lonely Place* (1950). Whatever his other achievements, Antheil never succeeded in distinguishing himself as a composer of film music.

## Pius XII

TO THE EDITOR:

Two of the letters that Kevin Madigan answers in his recent exchange with critics ["Controversy," January] make erroneous statements about my own work on Pius XII and the Holocaust. I was not involved in this exchange on Mr. Madigan's earlier article, "What the Vatican Knew About the Holocaust, and When" [October 2001], and would therefore like to set the record straight.

My book, *Under His Very Windows*, is not, as Michael Novak would have it, an "indictment of the wartime Pope." I did not attempt to put Pius XII on trial, nor did I declare him guilty or not guilty. The book is a work of history, examining whether Pius XII and his assistants at the Vatican Secretariat of State did as much to help Jews in Italy during the Holocaust as papal apologists maintain, or as little as the most hostile critics claim. Apologists have been disappointed that I found little evidence of direct papal involvement in Jewish rescue. Critics have disagreed with my discussion of certain diplomatic interventions by the Vatican on behalf of European Jews. The issues are complex, and often must be treated in shades of gray.

Michael Novak is also mistaken in writing that I was forced "to make several emendations and retractions" in a televised debate on this subject with Ronald J. Rychlak. Mr. Novak provides no examples, nor could he. The statement is simply untrue.

Ronald Rychlak, in his own letter in the January COMMENTARY, writes that I "found much oral testimony" that Pius XII instructed Catholics to help Jews fleeing the Nazis during the German occupation of Italy. This too is wrong. As my book makes perfectly clear, I found no reliable testimony to that effect. With one highly dubious exception, the men and women of the Church who were directly involved in Jewish rescue in Italy did not claim to have received a papal directive. Some actually denied it.

Mr. Rychlak likewise asserts that I can only be satisfied with written evidence. That is not the case. But if oral testimony is to be credible, there must be reason to think that it was actually given by individuals directly involved in Jewish rescue, and that it has not been distorted, misquoted, or misinterpreted for ulterior motives. In addition, it should be consistent with other confirmable data. To date, these standards have not been met.

SUSAN ZUCCOTTI
*New York City*

## Divorce

TO THE EDITOR:

In her discussion of William J. Bennett's *The Broken Hearth* [Books in Review, December 2001], Kay S. Hymowitz might have said more about the book's claim, with respect to divorce, that many "young [married] mothers . . . often feel forced to work as a defense against potential future impoverishment." In fact, if one takes into account the impact of relevant tax and Social-Security policies, those who experience the more serious drop in their living standard are quite often men who pay child support and incur other related expenses (hous-



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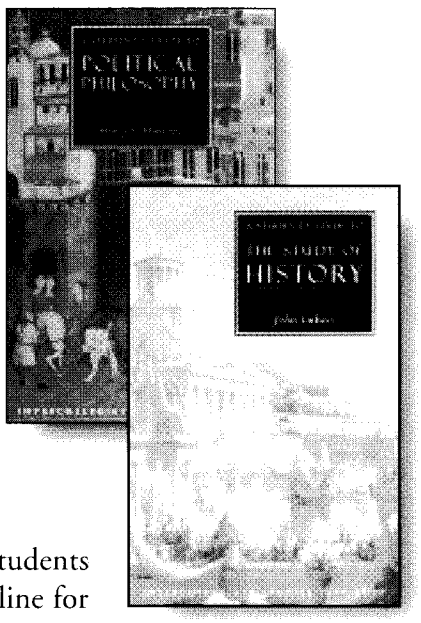


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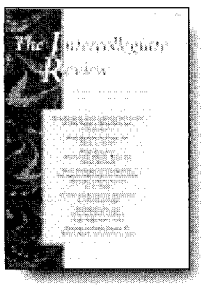

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ing, children's visits) rather than women who receive child support and stay in the family home.

Financial considerations apart, many family courts in the U.S. utterly disregard the emotional interests of divorced fathers, especially where children are concerned. American men are understandably reluctant to enter into a contract that is so often turned against them. If joint-custody rulings were more common, men would be more inclined to marry in the first place. Perhaps even more important, wives would be less inclined to file for divorce.

MIKLÓS HERNADI
*Hungarian Academy of Sciences*
*Budapest, Hungary*

KAY S. HYMOWITZ writes:

At the heart of Miklós Hernadi's letter seems to be the recognition that, in pondering the ill effects of marital breakdown, Americans are likely to focus their attentions on children, and, to a lesser extent, on women, who generally remain the primary caretakers and who after separation usually become primary wage earners as well. But the emotional devastation of many men severed from their children and their homes—a devastation amply reported in support groups, on websites, and to their friends and family—is enough to wrest tears from a stone.

In many cases, no doubt, their despair is magnified by their helplessness. As William J. Bennett points out in *The Broken Hearth*, 70 percent of divorces are initiated by women, in part because they can be fairly certain they will keep custody of their children. To make matters worse, these fathers have to contend with a culture that has grown increasingly blasé about their importance in children's lives, a trend that is discussed at length by Bennett.

Without wanting to minimize this larger issue, I nevertheless have to quibble with several of Mr. Hernadi's specific assertions. First, though divorce can damage men's financial status, the truth is it bodes worse for women. In fact, as Bennett shows, "over time the average divorced man experiences an increase in his standard of living." For women, unless they remarry, this is hardly ever the case; indeed, many women suffer a "precipitous decline" in their financial situation, sometimes to the brink of poverty, which is why, as I pointed out, many young married mothers today are reluctant to cut back on work hours even when their husbands are making enough money to support them.

Second—and I can speak only for myself here since Bennett does not address the point—I sincerely doubt that men are reluctant to marry because of fears they will lose their children in the event of a divorce. Certainly they are no better off in this respect when they have children outside of marriage, as so many seem to be doing today. Although the courts have blurred the legal distinction between married and unmarried fathers over the past decades, it is reasonable to assume that official fatherhood still confers some measure of security—at the very least psychologically—to men.

Most importantly, Mr. Hernadi's endorsement of joint custody, something that he wrongly implies is unusual in this country today, ignores the considerable problems this arrangement can cause for children, especially very young children, and unwittingly illustrates the fragmenting effects of divorce. Taking into account the emotional claims of fathers, judges sometimes even order that a six-month-old nursing infant divide his time equally between parents. The warring demands of pining fathers, infatuated mothers, and nursing infants says a good deal about the "radical individualistic ethos" that William J. Bennett describes as one of the causes of "the broken hearth."

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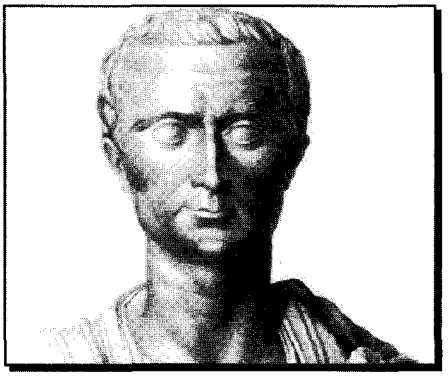

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**GARRETT G. FAGAN** (Ph.D., McMaster University, 1993) is associate professor of history at the Pennsylvania State University in State College. A native of Dublin, Ireland, he cared his bachelor's and master's degrees at Trinity College, Dublin, and was a Killam Postdoctoral Fellow at the University of British Columbia. Before joining the faculty at Penn State, he held teaching posts at McMaster University and York University in Canada, and at the University of North Carolina–Chapel Hill and Davidson College. Students at every institution consistently offered high praise for his courses in ancient history.

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CONTROVERSY

# "Bush v. Gore" and the Conservatives

## *Gary Rosen & Critics*

PETER BERKOWITZ:

Gary Rosen is right to take issue with those conservatives who reject the legal reasoning underlying the Supreme Court's per-curiam decision in *Bush* v. *Gore* but who nonetheless enthusiastically embrace the result ["Reconsidering *Bush* v. *Gore*," November 2001]. And he is right to stress that poorly reasoned or lawless decisions, particularly those coming from the nation's highest court, promote disrespect for the rule of law. But he is wrong to accept, with hardly even a gesture toward argument or evidence, the conventional wisdom about the alleged infirmities of the Court's legal reasoning.

The majority's reasoning can be simply stated. According to well-settled law, the equal-protection clause of the Fourteenth Amendment prohibits states from debasing or diluting the weight of a citizen's vote. The statewide manual recount of "undervoted" ballots (those with no machine-readable vote for President) ordered by the Florida Supreme Court violated this prohibition in a variety of ways: it permitted counties to use different and arbitrary standards to determine whether "undervoted" ballots contained legal votes; it arbitrarily excluded a class of spoiled ballots, "overvotes" (those ballots on which machines detected multiple votes for President); it allowed the inclusion of partial recounts of a county's votes; and it permitted untrained and unsupervised personnel to conduct the recounts.

Was the Court's reasoning airtight and unassailable? No. But when properly laid out it is hardly, as Mr. Rosen asserts, "unpersuasive on its own terms." It is plausible and respectable and may be correct.

Nor is Mr. Rosen on solid ground when, invoking Alan Dershowitz's reckless book-length polemic, he accuses the conservative Justices of producing an equal-protection holding that was "irreconcilable with the basic tenets of their judicial philosophy." Tensions there undoubtedly are, but where is the irreconcilability? Conservatives believe that state action must comply with federal law and the Constitution. The conservative members of the Rehnquist Court have in the past held state action invalid on equal-protection grounds. In *Bush* v. *Gore* they stressed, in typically conservative fashion, respect for forms and adherence to the rules.

Mr. Rosen worries that "taken to its logical conclusion, the notion of equal protection affirmed by the Court in *Bush* v. *Gore* would draw into question virtually every aspect of the country's locally run, state-administered, and highly decentralized electoral system." But this often repeated worry (or hope, depending on your point of view) is unfounded. As Justice David Souter explained in his dissent (in the course of laying out his reasons for agreeing with the majority that the Florida recount was unconstitutional), some differences in vote-counting technology across counties can be justified on the basis of cost and the value of local experimentation. But "a different order of disparity" obtained in the treatment of votes in the Florida recount, because there was no legitimate reason to treat similarly marked ballots differently from county to county, from precinct to precinct, and in some instances from counting table to counting table.



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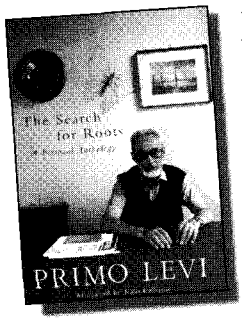


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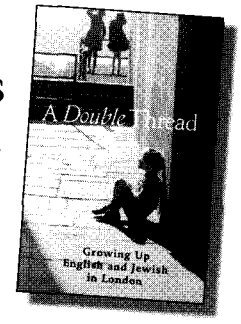


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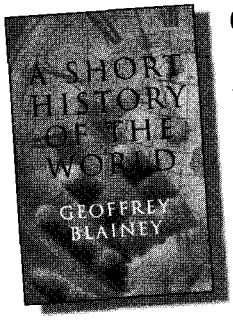


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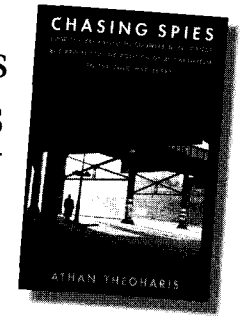


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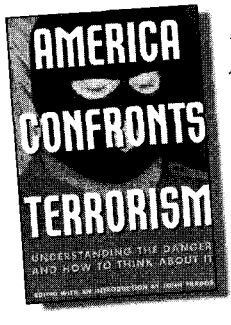


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Finally, Mr. Rosen contends that the "strongest argument" for the Court to have stayed out of the Florida election controversy was that "under the Constitution and federal law, it was the duty of other, more democratically accountable institutions to safeguard the integrity of the presidential election." Some such prudential or political argument may have furnished the strongest reason for the Court to avoid involvement, but even the strongest version proves inconclusive.

It is true that the Twelfth Amendment tells Congress how to count electoral votes, and that the Electoral Count Act specifies procedures for how Congress should resolve disputes about which electoral votes to count. These pertinent constitutional considerations indicate that Congress has authority, perhaps *final* authority, for resolving such disputes. But nothing in the Constitution or federal law implies that Congress has *exclusive* authority for resolving all controversies that may arise in the course of a presidential election. Indeed, given that the Florida election controversy had entered legal channels early on, and that the key decisions by the Florida court involved novel and difficult questions of constitutional law, the Supreme Court could reasonably be seen as the branch of government particularly well-suited to resolve the controversy.

*School of Law*
*George Mason University*
*Arlington, Virginia*

NELSON LUND:

It is Gary Rosen, not the five Justices he attacks, who has departed from conservative principles. The Supreme Court's decision in *Bush* v. *Gore* was a straightforward application of well-established legal doctrine, as the dissents implicitly acknowledged by their failure to show how the decision was inconsistent with the cases on which the majority relied. Mr. Rosen never even mentions these cases, and there is nothing "conservative" about pretending that relevant precedents do not exist.

The Justices held that several features of the recount ordered by the Florida court violated the principles established in a series of geographic vote-dilution decisions beginning with *Reynolds* v. *Sims* in 1964. In the wake of the 2000 election, the Florida court devised a complex system of vote-weighting in which certain kinds of ballots were more likely to be counted as legal votes in some places than in others, thus discriminating for and against different groups of voters based on where they happened to reside. The complexity of the geographic vote dilution ordered by the Florida court did not change its nature. This was a new *example* of vote dilution, but it was novel only because no legislature had ever prescribed anything so bizarre. As *Reynolds* and subsequent cases had established, the inevitability of some differences in the way ballots are treated does not mean that systematic and avoidable biases are permissible.

Ignoring the decisions on which the majority relied, Mr. Rosen recycles Alan Dershowitz's dishonest claim that the Court's conservatives performed an "ideological somersault." As evidence, he offers out-of-context quotations from cases in which Justices William Rehnquist and Clarence Thomas resisted unprecedented innovations in the branch of equal-protection law dealing with "suspect classifications," which has nothing to do with *Bush* v. *Gore*'s application of settled doctrine from the branch of the case law having to do with "fundamental rights."

Mr. Rosen supplements this sophistry with the canard that the Court was acting in bad faith because it declined to rule more broadly than the case required. Using another out-of-context quotation, this time from Justice Antonin Scalia, Mr. Rosen conflates the genuinely improper practice of announcing judicial dispositions that are not derived from articulated principles with the entirely proper recognition that the application of sweeping constitutional terms like "equal protection" necessarily requires differentiation among factually dissimilar cases.

Mr. Rosen also appears to accuse the Court of improperly deciding a nonjusticiable "political question." Even the *Bush* v. *Gore* dissenters did not go this far, presumably because they were aware of *McPherson* v. *Blacker* (1892) and *Baker* v. *Carr* (1962). If Mr. Rosen was aware of these decisions, he ignored them.

A principled conservative might argue that some or all of the precedents on which the majority relied were so clearly wrong that they should be overruled. But that would require a serious argument, not an appeal to anodyne slogans about "judicial restraint" and "passive virtues." And even if one buys Mr. Rosen's suggestion that it would have been shrewder for the Justices to duck the case entirely (as they could have done), such political punditry is not a substitute for legal analysis. Those on the Left, not conservatives, are advantaged when law is reduced to politics.

Finally, Mr. Rosen repeats the myth that the Supreme Court refused to let "the state's high court try to remedy the (supposed) violation of equal protection in its recount standards." Yet, only one day before the Supreme Court's December 12 decision, the Florida court itself said that December 12 was the deadline under state law for completing the recounts. The Justices properly deferred to that court's interpretation of state law, and they also properly gave that court an opportunity (though not an invitation) to revise its interpretation of state law on remand. Al Gore's lawyers did not ask the Florida court to take this step, but they have acknowledged that the Supreme Court's opinion left this avenue open to them.



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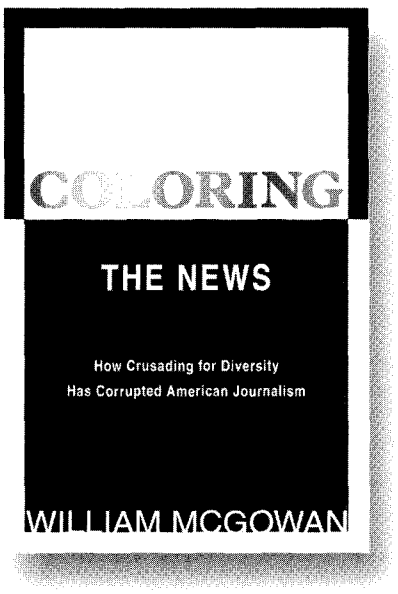


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*Bush* v. *Gore* has indeed exposed a disturbing lack of adherence by certain conservatives to conservative principles, but the guilty parties do not sit on the U.S. Supreme Court.

*School of Law*
*George Mason University*
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EINER ELHAUGE:

One could reasonably argue that the Supreme Court should have held that only the Florida legislature and the U.S. Congress could decide whether Florida's high court had deviated from the state's election law. Indeed, I so argued as counsel to the Florida House of Representatives during last year's election dispute. But Gary Rosen is mistaken to suggest that the Supreme Court should have refused to hear Bush's equal-protection claim against the Florida recount because it raised a "political question" and was weak on the merits.

The Supreme Court routinely judges whether election laws violate the Constitution's equal-protection clause. In doing so, it has rejected the argument that such involvement raises nonjusticiable "political questions," even when the issue is the drawing of legislative districts. Nor has the Court shrunk from presidential election disputes, having ruled on John Anderson's behalf in *Anderson* v. *Celebrezze* (1983). Indeed, discrimination in election law merits judicial intervention *more* than other forms of discrimination because it can suppress the political remedy for bad government. If election officials counted dimpled ballots only when cast by Democrats, would anyone bar the courthouse doors to the Republicans?

Nor was Bush's equal-protection argument weak. Mr. Rosen concludes otherwise by basing himself on the mistaken premise that, taken to its logical conclusion, the Court's equal-protection theory would require all counties to use the same counting machines and standards. But the opinion is clear that the Justices' objection was not to mere variation but to differences in ballot treatment that resulted from the exercise of standardless discretion by officials acting after the election.

The Court has traditionally looked with suspicion on standardless discretion. Thus, different counties are allowed to have different rules about when to issue parade permits (*Forsyth County* v. *The Nationalist Movement*, 1992) or where newsracks may be located (*City of Lakewood* v. *Plain Dealer Publishing Co.*, 1988), but the rules must be clear. Why? Because standardless discretion allows officials to engage in undetectable discrimination against disfavored viewpoints. No one cares if one county chooses to have fewer parades or newsracks than another. What we care about is whether counties can suppress the parades or newspapers they do not like.

Likewise, it is unproblematic if, before an election, counties elect to have different counting machines or different standards for counting chads. No county has an incentive to choose machinery or standards that undercount its own votes and thus diminish its clout within the state. And if the county acts before an election, it cannot know which political party will benefit from its choice. The exercise of standardless discretion *after* an election allows partisan officials to discriminate to their party's advantage.

In *Bush* v. *Gore*, the Court pointed to considerable evidence of standardless discretion. The standards varied not just among counties but between different recount teams, and even between different members of the same county board. Counties changed their standard multiple times after they knew the results produced by earlier standards. Counters were assembled ad hoc, without training or screening for political bias. Furthermore, the manual recount selectively targeted those ballots thought to help Gore the most (the "undervotes"), and mandated including results from heavily Democratic precincts of Miami-Dade County whether or not results were obtained in Republican precincts.

The Court's concerns were confirmed by the recent media recount of the Florida vote. Though it was a professional recount, conducted at an unhurried pace by counters screened for political bias and applying the same standards, Democratic counters were 25 percent more likely than Republican counters to deny that a mark reflected a vote for Bush, and Republicans were 4 percent more likely to deny that a mark meant a vote for Gore. One can imagine how discriminatory the results would have been had Florida proceeded with its rushed, partisan recount using varying standards.

Some have argued that the Court deviated from precedents holding that the equal-protection clause only bars explicit or intentional discrimination. But in *Anderson*, the Court struck down a filing deadline that was neutral on its face without any proof of discriminatory intent. Its test was whether the election law had an unreasonable or discriminatory effect on one candidate. Likewise, the decisions in *Forsyth* and *Lakewood* struck down laws that were never proved to be explicitly or intentionally discriminatory; it was enough that the laws, by giving standardless discretion to officials, had created the potential for undetectable viewpoint discrimination.

Even if we accept the dubious claim that the Justices should follow their own personal precedents rather than those of the Court, Mr. Rosen is unfair to condemn the majority in *Bush* v. *Gore* for deviating from their prior views. All five conservative Justices had previously adopted the *Anderson* test, and had agreed that standardless discretion was unconstitutional in the parade-permit case.

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RICHARD A. EPSTEIN:

Gary Rosen's perceptive retrospective well captures the strange role reversals that *Bush* v. *Gore* spawned. There can be little doubt that conservative thinkers praised the doctrine of judicial restraint insofar as it applied to the wanderings of the Florida Supreme Court, only to throw it to the winds when the question was whether the U.S. Supreme Court should intervene on what many regarded as a matter of state law—to wit, the interpretation of Florida election law.

Where Mr. Rosen goes wrong, I believe, is in suggesting that none of the theories adopted by the Court justified its intervention. The majority's greatest strategic blunder in *Bush* v. *Gore* was to bet its grubstake on an equal-protection argument that simply cannot bear the weight placed on it. For the longest time, conservative judges have urged a narrow interpretation of this clause, an interpretation that makes inadvertent vote dilution a most improbable place for discovering a violation of equal protection. In previous cases, the Court had found such violations only where a "suspect classification," like race, had been used and where the norm of equal treatment had been intentionally defied.

The far better argument in *Bush* v. *Gore* was based on Article II of the Constitution, whereby a state must "appoint" its electors "in such Manner as the Legislature . . . may Direct." This argument, embraced only by Justices Rehnquist, Scalia, and Thomas, has multiple advantages over the novel equal-protection claim that in fact decided the case. It makes it unnecessary to distinguish away a flock of equal-protection precedents that cut against the majority's decision; because it applies only to federal elections, it does not encourage the endless follow-on litigation of state elections that may result from the Court's new equal-protection doctrine; and it directs fire more effectively at the Florida Supreme Court for the way it mangled Florida election law.

The bill of particulars against the Florida court is damning. It usurped the power of the secretary of state, in whom the legislature, with an eye to uniformity, had vested the authority to administer and interpret the state's election laws. The decisions of such officials are subject to judicial review only when they have clearly abused their discretion, which was not the case here.

Indeed, it is the Florida justices who abused their authority. They extended deadlines for precinct recounts without cause; they issued an indefensibly broad reading of what the law meant by an "error in the vote tabulation," thus redefining a legal vote so as to substitute unreliable hand-counts for more accurate machine counts; and they bypassed the normal processes for the administrative "protest" of an election by authorizing a state judge to conduct recounts in places where neither side had requested them. Bush won the election according to the rules set out by the Florida legislature. Gore had a chance to win only under the rules created out of whole cloth by the Florida Supreme Court.

Stressing this line of argument makes it possible, moreover, to avoid the "pragmatic" arguments championed by Richard A. Posner, who feared "paralyzing chaos" if the litigation in *Bush* v. *Gore* had worked its way first through the Florida legislature and then the Congress. An obvious rejoinder to Posner and those who agree with him is that the American public was bored but not restless with the endless legal wrangling: no coup was in the air. More to the point, these pragmatic arguments have proved nothing but an embarrassment to any principled effort to defend the outcome of *Bush* v. *Gore* on Article II grounds. Appealing to realpolitik sounds like a tacit confession that all the conventional legal arguments favored Gore, when in fact they did not.

*University of Chicago Law School*
*Chicago, Illinois*

ROBERT H. BORK:

Gary Rosen's argument that the Supreme Court should have refrained from deciding *Bush* v. *Gore* rests upon several grounds, none of them, in my opinion, convincing. "If judicial restraint means anything," Mr. Rosen says, "it is that the Justices should respect the prerogatives of the other branches of government, especially with regard" to questions "that do not clearly fall within the Court's institutional competence and would needlessly involve it in partisan controversy." The legal question addressed by the Court's three-Justice conservative minority—whether the actions of the Florida Supreme Court violated Article II of the Constitution and Section 5 of Title 3 of the United States Code—is plainly within the Court's institutional competence, and the prospect of partisan controversy is hardly reason to ignore the law.

Four other Justices, including two of the Court's liberals, agreed that a constitutional violation was taking place. It is unfortunate that they chose the equal-protection clause as the grounds for that conclusion, but that does not affect the correctness of the rationale adopted by Chief Justice Rehnquist and Justices Scalia and Thomas. The charge of abandoning judicial restraint is more appropriately directed to those who preferred the equal-protection rationale to the Article II reasoning.

It may be objected that the three concurring Justices also signed on to the equal-protection argument and, to that extent, endorsed a faulty position. They probably could not have held some of the other Justices to their positions without doing that. If so, it was the kind of tactical



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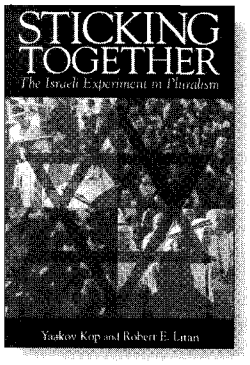


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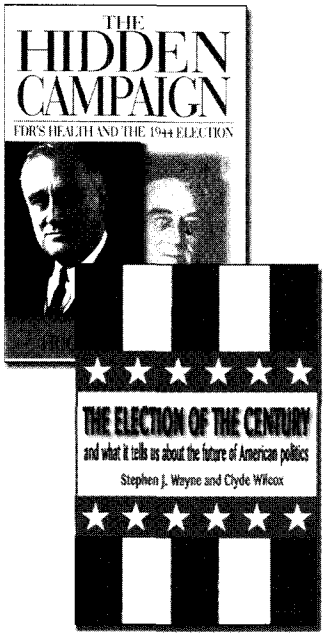
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compromise that occurs from time to time on all multi-member courts, and does not provide reason to say that the conservative Justices sacrificed their principles to partisanship. They demonstrated in their concurring opinion that the outcome was correct on solid constitutional grounds.

Particularly unpersuasive are Mr. Rosen's concluding arguments that conservatives will have difficulty continuing to endorse judicial restraint and that the Left may renew its "commitment to using the courts as an engine of social change." It is difficult to see what is unrestrained about the concurring opinion signed by the three conservative Justices. As for the Left, its commitment to the misuse of courts to frustrate democracy has never wavered and hardly needs renewing.

*American Enterprise Institute*
*Washington, D.C.*

THOMAS M. COMERFORD:

Gary Rosen glosses over the overriding fact that if the conservative Justices had remained inactive on this matter, we would have been left with the rulings of the rogue Florida Supreme Court, which was aiding and abetting the invention of enough votes to give the election to Gore. As someone who decries judicial activism, I wish that it would have been possible for the Justices to stand down, but it cannot be emphasized enough that, had they done so, the rawest, most unprincipled form of judicial activism would have triumphed. To paraphrase Justice Jackson, a principled stand against judicial activism is not a suicide pact.

Nor would resorting to the provisions of the Electoral Count Act have produced a nonpolitical result. With a Republican House of Representatives and a Senate either controlled by the Democrats or evenly divided between the parties, Congress would not have been able to exercise its powers under the act. The act provides that a state's *certified* vote should decide a deadlock. But if Gore's electoral slate had "won" under the recount rules of the Florida Supreme Court and if Governor Jeb Bush, believing the election stolen, had certified the Florida legislature's slate for his brother, the Florida justices might have directed some state official to certify their slate, resulting in a certification impasse.

In the end, we would have had a compromise like the one in 1876, which produced a tarnished President. Or else the dispute would have wound up in the U.S. Supreme Court anyway.

*Dallas, Texas*

LESTER BRICKMAN:

Gary Rosen argues that the conservative majority on the Supreme Court should have remained true to its principles and chosen not to intervene in the Florida election dispute. He assumes that had the recounts ordered by Florida's high court gone forward, Bush would still have won, as demonstrated by most of the recounts conducted after the election at the behest of news organizations. Mr. Rosen's assumption is wrong, however, and springs from a misunderstanding of the political context in Florida.

When the Florida justices rewrote the state's election laws after the votes had been cast, they set up a recount process designed to assure Gore the necessary votes to overtake Bush's lead. The news organizations hired neutral counters, but many of the Democratic officials in charge of the actual recount were anything but neutral. The process was designed to deliver a victory for Gore.

If this were as obvious to Gary Rosen as it was to the conservative members of the U.S. Supreme Court, he might have come to a different conclusion.

*Cardozo School of Law*
*Yeshiva University*
*New York City*

ROBERT D. WEINBERG:

Though the conservative majority in *Bush* v. *Gore* may have sidestepped certain of its longstanding principles—judicial restraint, federalism, strict construction—imagine how these principles would have fared after a Gore victory and subsequent judicial appointments. Sometimes one must disregard principles in the short term in order to save them in the long term.

Moreover, if Gary Rosen believes for a moment that the conservative Justices' strict adherence to their principles would have inspired liberals to change their tune on judicial activism, he is sadly mistaken. *Bush* v. *Gore* was an important reminder to them that two can play at this game.

*Jackson Heights, New York*

JOHN J. DIIULIO, JR.:

Bravo to Gary Rosen for arguing that the logic by which the Supreme Court concluded the 2000 presidential contest was anything but consistent with conservative precepts or jurisprudence. I made a kindred argument in the *Weekly Standard* right after the decision was announced. Nobody doubts (and subsequent reports have done much to confirm) that the Court's conservative Justices, feeling tremendous pressure to "end it," did what they thought was right at the time. But when conservative judges forsake fundamental doctrines out of a sudden solicitude for uniform electoral procedures—in a country where such procedures have long varied not only from state to state but from county to county and even within counties—they have reasoned poorly and decided wrongly.

Yes, it would have been sheer hell to let the Florida legislature and then the Congress decide the controversy, but the only constitutionally correct course for the Court was to direct the matter back



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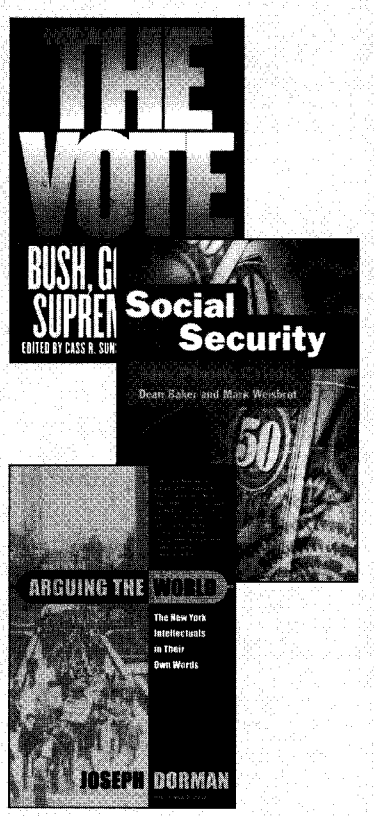


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to elected representatives. Yes, it would have taken what was already a three-ring media circus and turned it into worse, but it might also have proved to be a teachable civic moment concerning what Alexander Hamilton, in *Federalist* 1, termed "government by reflection and choice."

I have yet to hear any conservative apologist for the Court explain how, had the presidential shoe been placed on Gore's foot by precisely the same Fourteenth Amendment "jurisprudence," conservatives would not still be howling about the imperial, activist, antidemocratic, ideologically driven Court and its minions. No, Mr. Rosen is right, and it is a shame that so few conservatives have demonstrated their anything-but-foolish consistency by saying so.

In *Bush* v. *Gore*, the Court trivialized the Constitution, aped liberal equal-protection polemics, and made a futile attempt to depoliticize questions that are inescapably political. It did not follow the election returns, but decided them in a way that will, in due course, give the full-time judicial imperialists of the Left what they need to consolidate further their perverse control over our system of self-governance.

*University of Pennsylvania*
*Philadelphia, Pennsylvania*

SETH A. HALPERN:

Congratulations to Gary Rosen for repudiating the so-called conservatives who would have the Supreme Court save America in spite of itself. It is hard to resist the notion that many of those applauding the ill-conceived decision in *Bush* v. *Gore* were simply venting decades' worth of frustration and rage now that the Left was hoist by its own petard. One hopes the gleeful cackles will be replaced with more sober assessments, like Mr. Rosen's, of the damage done to their own cause.

*Scarsdale, New York*

JEFFREY ROSEN:

In a decade or so, I have no doubt that Gary Rosen's brave essay on *Bush* v. *Gore* will rank with John Hart Ely's classic essay on *Roe* v. *Wade* as a model of how principled commentators can separate their political allegiances from their constitutional conclusions. Ely was a liberal who supported abortion but had the courage to acknowledge that the constitutional reasoning of *Roe* was shabby and unconvincing. Mr. Rosen is a conservative who supports Bush but has the courage to acknowledge that the constitutional reasoning of *Bush* v. *Gore* is similarly shabby and unconvincing.

Mr. Rosen candidly acknowledges the flaws not only of the equal-protection argument embraced by the five Justices in the majority but also of the various alternative arguments that have been retrospectively devised to justify *Bush* v. *Gore*. These include the novel and unprecedented Article II argument and the purportedly pragmatic argument—only the Court could save the country from chaos—that has been revealed as hyperbolic and inaccurate by the results of the media recounts, which indicate that Bush would have won without the Court's eager assistance. The Florida Supreme Court went too far, Mr. Rosen recognizes, but Congress was the body authorized to correct its errors.

By closing ranks around a transparently unconvincing and activist decision, conservatives are making the same mistake that many liberals made when they rallied around *Roe*, or spent the ensuing decades trying to come up with a better argument for a result that the Court itself was unable to justify. By closing ranks around *Bush* v. *Gore*, rather than acknowledging it as a constitutional embarrassment, conservatives are making a historic error that will return to haunt them. As one of the only conservatives who has had the integrity to dissent, Gary Rosen may have angered his friends, but he will be vindicated by the respect of history.

*Legal Affairs Editor*
The New Republic
*Washington, D.C.*

SAMUEL ISSACHAROFF:

It is axiomatic in politics that the center rarely holds. Undoubtedly, Gary Rosen's "reconsideration" of *Bush* v. *Gore* will be seen in conservative circles as the secular equivalent of blasphemy. Not being a disciple of that particular church, I found the article a welcome break from the seeming inability of partisans on either side to see in the Supreme Court's decision anything but what their political predilections would have predicted.

Mr. Rosen expresses discomfort with judicial intervention in the political process and asks for a high burden of justification before courts enter into active electoral controversies. He recognizes, too, that there are inevitable costs associated with judicial involvement in politics, even where the federal interest is well established (and here I leave aside the obviously contentious question of whether Florida 2000 actually presented such an interest). Finally, he asks the question that appeared never to trouble the five Justices who ruled for Bush: whether other institutional actors, such as the state legislature or Congress, could have repaired the harm had the Court stayed its impulse to intervene.

Unfortunately for Mr. Rosen, his position found its closest ally on the Court not among the conservatives but in the opinion of Justice Stephen Breyer. It was Breyer who asked the inevitable question of why the Court should have thrust itself into the midst of partisan rancor when both the Twelfth Amendment and the Electoral Count Act so palpably demonstrate an institutional commitment to letting the political branches resolve this consummately political matter—at least



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in the first instance. What happened in Florida was about politics, and it is stunning to see the uniformity of conservative support for the idea that the Court was right to supplant the political process.

But what of the Article II rationale for the Court's intervention, embraced by three of the conservative Justices and given a sympathetic hearing by Mr. Rosen? I am confident that time will show this to have been a make-weight argument, hastily crafted for the issue at hand. Can Article II really mean that state courts are precluded from reviewing the presidential voting schemes enacted by legislatures? Surely not. Had the Florida legislature decreed that no women could vote for electors—to pick an extreme example—the Florida courts would have been duty-bound to strike down the law under the Nineteenth Amendment, which guarantees women the franchise. Indeed, the supremacy clause of the Constitution would have required them to do so.

The Article II proponents on the Court found a defect in Florida only because the state judiciary had interfered with the selection of *presidential* electors. But what if the office in question had been not the presidency but one of Florida's seats in the closely divided U.S. Senate? Article II would have nothing to say about this; there would be no federal interest—a position that seems ridiculously formalistic, considering that the supposed overreaching by the state courts would have been exactly the same.

Removed from the rancor of the 2000 election, Gary Rosen's article is a welcome step toward a critical assessment of the relation between law and politics. *Bush* v. *Gore* is such an extreme and troubling judicial intervention into the domain of politics that the prevailing intellectual coalition was unlikely to remain intact.

*Columbia Law School*
*New York City*

SANFORD LEVINSON:

It can occasion little surprise that I admire Gary Rosen's "Reconsidering *Bush* v. *Gore*," since I am on record describing the case as an abomination. My admiration comes from the fact that Mr. Rosen is one of the remarkably few conservatives who have been willing to "go public," as it were, with their doubts about the fundamental legitimacy of the decision. Even conservatives who are skeptical of the arguments in the majority opinion, like Richard A. Posner, seem eager to offer a "pragmatic" defense of the decision.

If Mr. Rosen is willing to admit that some of the liberal critics of the decision may be worth attending to, then an obvious question is whether those liberal critics may themselves be willing to concede in return the merits of at least some of the conservative critique of the Warren Court and its aftermath. One topic that certainly bears reexamination, especially in light of *Bush* v. *Gore*, is the wisdom—and constitutional provenance—of the Supreme Court's earlier interventions in the political process in the so-called "one-person, one-vote" cases.

A consensus appears to be developing in the legal academy, among both liberals and conservatives, that the Court's almost literally thoughtless emphasis on mathematical equality in the population of voting districts has not served the country well and has repeatedly drawn the judiciary into what Justice Frankfurter famously called a "political thicket." Few analysts reject *Baker* v. *Carr* itself, which made legislative districting "justiciable" in the first place. Rather, the critics focus on how rapidly the courts have moved from declaring that they had *something* to say about districting to the conclusion that they were entitled to have the dogmatic last word on the subject, whatever the cost to legitimate political interests.

The presidency of Bill Clinton forced some conservatives to reconsider their endorsement of almost unfettered executive authority. Similarly, *Bush* v. *Gore* must force liberals to recognize that there may have been more merit than they had previously acknowledged to Justice Frankfurter's warning about involving the courts in disputes best left to the political process.

*School of Law*
*University of Texas*
*Austin, Texas*

CASS R. SUNSTEIN:

Gary Rosen's essay on *Bush* v. *Gore* is especially interesting not only because of its content, but because Mr. Rosen is one of the relatively few conservatives who have publicly criticized the Supreme Court's decision. Why is this? Indeed there is an equivalent puzzle. Relatively few liberals have publicly applauded the decision. Why is that? Why have more liberals not written in defense of the Court's aggressive use of the equal-protection clause?

For those who believe in the rule of law, it is more than disturbing to find that by far the best predictor of one's attitude toward *Bush* v. *Gore* is whether one voted for Bush or for Gore. Perhaps this is not so disturbing for ordinary citizens, who are not specialists in constitutional law. But it is extremely disturbing to find that on the highly technical, even esoteric issues involved in the case, the attitudes of so many specialists—including journalists who follow the Court, political scientists, historians, law professors, and even judges—seem determined, almost all of the time, by their political preferences. Mr. Rosen's critical remarks on the Court's decision are refreshing, but I wish that he had done more to address this puzzle.

*University of Chicago Law School*
*Chicago, Illinois*



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## Gary Rosen

WHEN SPEAKING about the Constitution and the role of the Supreme Court, conservatives tend to sound like monks—full of professions of modesty, self-denial, and indifference to worldly ends. The job of the Justices, spokesmen for the Right typically declare, is not to "legislate from the bench," deciding which policies are good or bad, what direction American society should take. Rather, it is to see what, if anything, the Constitution has to say about a given issue. If the Constitution is silent—and, as a matter of language and history, it is silent about a great many things—the Justices should be silent as well. They should exercise (in the familiar catchphrase) "judicial restraint," deferring whenever possible to the choices of the American people and their elected representatives.

The problem with this seemingly austere view of the judiciary is that it seldom demands any meaningful sacrifice from those who espouse it. Conservatives thunder against Justices who indulge their own ideological preferences, but this indignation comes cheap, since those preferences, for the past half-century, have been overwhelmingly liberal. Thanks to the judicial depredations of the Left, conservatives have been able to have their cake and eat it too, standing above the fray as stern defenders of the Constitution while at the same time smiting their political foes and sparing their own agenda.

The Florida election controversy was thus a rare opportunity for conservatives, on and off the bench, to show that their constitutional principles transcend their own political interests. To put a finer point on it, *Bush* v. *Gore* was a test of conservative integrity—one that, to my disappointment, the five conservative Justices failed. My mind has not been changed by the various rationalizations for the Court's decision now offered by letter-writers who should know better.

PETER BERKOWITZ and Nelson Lund would have us believe that the conservative Justices were simply following precedent, engaging in what Mr. Lund calls a "straightforward application of well-established legal doctrine." The cases to which he refers, *Baker* v. *Carr* (1962) and *Reynolds* v. *Sims* (1964), did indeed concern "vote dilution," but the term is highly misleading when applied to the Florida controversy. *Baker*, *Reynolds*, and their judicial progeny involved gross disparities in the population of voting districts and the "dilution" that took place when, say, a rural district of 5,000 and an urban district of 50,000 both had a single representative in the state legislature. In these cases, according to the Court, discrete and identifiable constituencies—city residents, for the most part—had been systematically denied the "equal protection" promised by the Fourteenth Amendment.

What took place in Florida was not a "new *example*" of these apportionment practices, as Mr. Lund lamely suggests. It was a dispute over how votes should be counted in the first place—an area into which the Court had not previously delved. At the same time, and of crucial importance in cases of this sort, the arbitrariness in the Florida recount—and arbitrariness there was aplenty—did not affect one part of the population more than another. Under the rules finally promulgated by the Florida justices, no identifiable group was put at a special disadvantage; potentially biased election officials of both parties would have scrutinized the "undervoted" ballots of voters in every corner of the state.

As for the practical consequences of *Bush* v. *Gore*, Peter Berkowitz assures us that the decision poses no threat to continued local discretion over election procedures. Disparities in recount standards, he asserts, are a completely separate issue from disparities in basic voting technology. But this makes no sense. If we learned anything from the Florida election fiasco, it is that it matters a great deal whether the voting machine that greets you when you pull back the curtain is an Accuvote optical scanner or an old-fashioned punchcard system. With the newer technology, the risk that a voter will spoil his ballot is significantly and consistently lower. Why, by the Court's own (unpersuasive) logic, should a county or state be allowed to choose the less reliable system, thereby effectively disenfranchising large numbers of voters?

The conservative Justices themselves clearly appreciated the far-reaching implications of their ruling in *Bush* v. *Gore*. That is why they insisted that their decision applied only to the "present circumstances"—an extraordinary and self-serving disclaimer that Mr. Lund unashamedly defends as nothing more than "declin[ing] to rule more broadly than the case required." But the Court's expansive new interpretation of the equal-protection clause will not be confined so easily. It has already prompted legal action against election systems in Florida and Illinois, and more suits are sure to follow.

WORSE—AND here we arrive at the question of ideological consistency—even if the ruling in *Bush* v. *Gore* could be connected in some plausible way to cases like *Baker* and *Reynolds*, the conservative Justices now sitting on the Court are perhaps the last jurists in the country one would expect to make such a connection. The vote-dilution decisions of the 1960's are landmarks of the Warren Court—liberal activism at its height. They sparked years of intense litigation, and resulted in the overturning of long-established apportionment schemes in nearly every state, all in the name of ensuring strict mathematical equality among election districts.



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Judicial conservatives have condemned these decisions from the start. "The history of the adoption of the Fourteenth Amendment," wrote Justice Harlan in a stinging dissent in *Reynolds*, "provides conclusive evidence that neither those who proposed nor those who ratified the amendment believed that the equal-protection clause limited the power of the states to apportion their legislatures as they saw fit." More recently, in a collection of lectures titled *A Matter of Interpretation*, Justice Scalia ranked *Reynolds* among the most objectionable decisions rendered by those who believe in a "living" Constitution. In his 1997 Wriston Lecture at the Manhattan Institute, Scalia went still further, lamenting the change in constitutional attitudes that has taken place over the past century. His benchmark was the Nineteenth Amendment, adopted in 1920 to give women the right to vote:

> Can you imagine an American society that would adopt a constitutional amendment for that? We had an equal-protection clause in 1920. And in the abstract what could possibly be a greater denial of equal protection . . . than denial of the franchise? And yet the Americans of 1920 did not think that the solution for this was to come to the Supreme Court and say, "We have been denied equal protection." . . . You know for sure that that is the way it would play today.

Justice Scalia is hardly alone among the current members of the Supreme Court in rejecting virtually any effort to broaden the meaning of equal protection, whether in the realm of "suspect classifications" or in that of "fundamental rights," to use the technical categories with which Mr. Lund tries to cloud the issue. Justices Rehnquist and Thomas—and to a significant extent, Sandra Day O'Connor and Anthony Kennedy as well—have also stressed the original meaning of the clause, which is what made it so easy for Alan Dershowitz to gather the damning evidence against them that I used in my article. It gave me no pleasure to side with the often deplorable Dershowitz, but he did not distort or misrepresent the views of these Justices, as Messrs. Berkowitz and Lund charge with misplaced vehemence.

Throughout their careers, the Court's conservative Justices have rightly seen the equal-protection clause as a prime source of liberal mischief, and have sought to narrow its reach, not hesitating to reject activist precedents with which they disagree. The notion that, in *Bush* v. *Gore*, they were compelled to apply—and extend!—equal-protection case law inherited from the Warren Court is nothing short of ludicrous.

EINER ELHAUGE seeks to defend the majority's ruling in *Bush* v. *Gore* by an entirely different route. In his eyes, the relevant precedents have to do with "standardless discretion." Just as the Court has frowned on giving local officials too much leeway in handing out parade permits or newspaper concessions, so too, he suggests, was it right for the Justices to quash "Florida's rushed, partisan recount," with its "varying standards."

The curious thing about *Forsyth* and *Lakewood*—the two cases Mr. Elhauge cites—is that they appear nowhere in the majority's decision. Why did the Justices refrain from citing such supposedly decisive precedents? Because they have nothing to do with the equal-protection clause of the Fourteenth Amendment, the constitutional provision on which the Justices explicitly based their ruling.

*Forsyth* and *Lakewood* were *First* Amendment cases, involving the basic freedoms of speech, assembly, and the press. As such, they drew on a body of jurisprudence much more stringent in its demands than equal-protection law. That law, as I suggested above, has a relatively short—and controversial—history with respect to voting rights. Never before had it been thought to prohibit the sort of partisan manipulation of voting procedures that undoubtedly took place in Florida (and that has long been a part of American politics). Mr. Elhauge tendentiously mixes constitutional apples and oranges—something that the Court itself declined to do.

TO THEIR credit, Richard A. Epstein and Robert H. Bork are unequivocal in rejecting the equal-protection argument of the Court's majority opinion. They believe that far better grounds for ending the Florida recount lay in the concurrence, based on Article II, that was written by Chief Justice Rehnquist and joined by Justices Scalia and Thomas. On this view of the case, the decisive factor was the outrageous overreaching of the Florida Supreme Court, whose various rulings, as Mr. Epstein puts it, "mangled" the election laws that had been set in place by the state legislature.

The Article II argument is indeed more respectable, especially for conservatives, and I acknowledged as much in my piece. But that hardly makes it unproblematic. In the first place, and most obviously, it commanded just three votes on the Court—it was not the Justices' ruling. As a matter of law, *Bush* v. *Gore* stands or falls on the strength of the majority's equal-protection analysis.

Judge Bork asks us to look beyond that analysis and appreciate that Rehnquist, Scalia, and Thomas joined the majority opinion as a "tactical compromise," concerned more about what they saw as the correct result—stopping the Florida recount—than about the means by which it was achieved. But their endorsement of the Court's equal-protection ruling was not just a "tactical" shift. It was an egregious reversal of longstanding principle, and, as such, could only appear as a judicial power play—the sort of thing for which the conserva-



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tive Justices (and, for that matter, Judge Bork) have often criticized liberal activists.

Mr. Epstein, for his part, only implicitly suggests that the Article II argument is enough to vindicate *Bush* v. *Gore* as a whole. To the extent that he does, however, he is not so far from the unprincipled "pragmatism" and "realpolitik" that he rightly criticizes in Richard A. Posner's defense of the Court's ruling.

As the letters of Thomas M. Comerford, Lester Brickman, and Robert D. Weinberg suggest, many conservatives have in fact concluded that the only proper way to evaluate *Bush* v. *Gore* is in terms of its result—bad law, yes, but in the service of a good cause. This rationale should sound familiar; it is how liberals over the past several generations have often justified their own judicial excesses. If both sides are going to "play at this game," as Mr. Weinberg recommends, conservatives should do away with the pretense that on constitutional matters they speak as disinterested umpires.

THE MORE fundamental problem with the Article II argument is its novelty—its plausible but unprecedented claim that, although entitled to interpret state election law, the Florida court had gone so far beyond its authority as to run afoul of the Constitution. The novelty of a constitutional argument does not make it incorrect, of course. But in this case it should have given the Justices pause, especially since the issues involved were of precisely the sort that, under the Constitution and federal law, fell to other, more democratically accountable bodies.

The question here is not whether the Florida justices had made a hash of things—they had, and their shameless activism demanded a remedy. Rather, it is a question of institutional authority and competence, of whose role it was to right this wrong. For conservatives, it has long been axiomatic that, where other branches of government—especially those more responsive to the people—are able to resolve a divisive political issue, the Supreme Court should allow them to do so.

In his eloquent letter, John J. DiIulio, Jr.—an early, lonely conservative dissenter on *Bush* v. *Gore*—summarizes this view, which I feel sure would have been the conventional wisdom on the Right if it had been the *Democratic* nominee seeking the intervention of the Supreme Court. As Samuel Issacharoff observes, it has been "stunning to see the uniformity of conservative support for the idea that the Court was right to supplant the political process." On this point, several of my critics have misunderstood me. I never said that issues of the sort raised in *Bush* v. *Gore* were "nonjusticiable"—the Warren Court crossed that bridge some time ago, as Sanford Levinson reminds us—only that the conservative Justices should not have agreed to adjudicate them.

I JOIN with Seth A. Halpern in hoping that conservatives will come around to "more sober assessments" of the decision, and I appreciate Jeffrey Rosen's flattering suggestion that my own essay will help bring about such a reevaluation.

What *Bush* v. *Gore* will mean for the wider debate about constitutional interpretation is difficult to say, though I stand by the depressing speculations I made in my article. Mr. Levinson may be correct that some liberals have begun to reconsider their activist ways, but these second thoughts tend to be the stuff of academic seminars and conferences, not of action in the courts. If, as I suspect, *Bush* v. *Gore* makes it harder for conservatives to go on invoking ideas like judicial restraint and strict constitutional construction, then an important cultural barrier to liberal activism will have been removed.

I share Cass R. Sunstein's disappointment that evaluations of *Bush* v. *Gore* seem so completely determined by partisan loyalties. This seems to me all the more reason to uphold an approach to the Constitution and the Supreme Court that not only counsels judicial modesty but insists on its impartial exercise.



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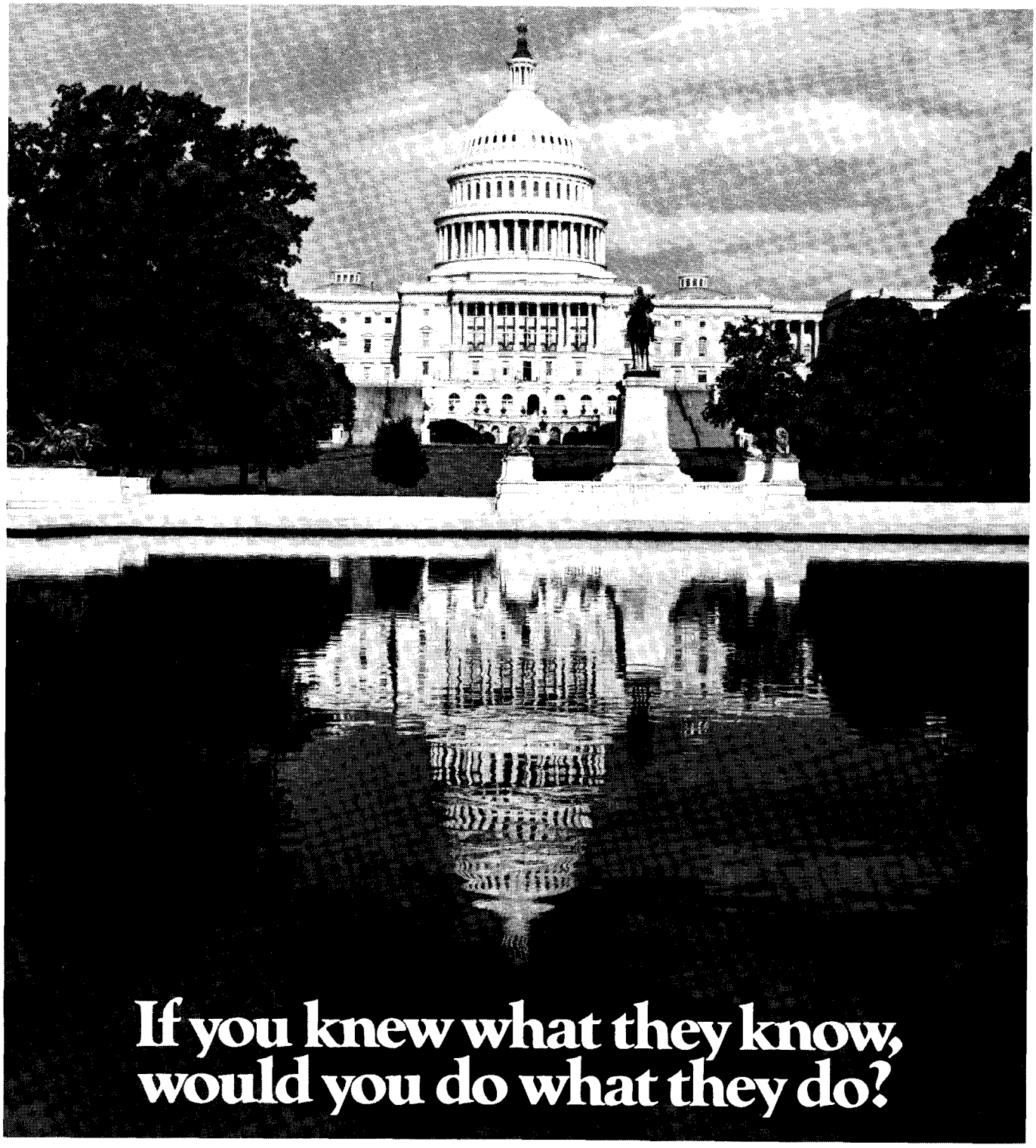

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Commentary
March 2002

# Back to Politics as Usual?

*Daniel Casse*

A FRONT-PAGE item in the *New York Times* last September reported that congressional Republican leaders were already in a panic about the November 2002 mid-term elections. It seems a Republican strategy meeting attended by a senior adviser to the President had quickly descended into "a gripe session about Mr. Bush's passivity during his month-long [summer] vacation." A nationwide survey presented at the meeting showed that Republicans were losing support and voters believed the country to be on the wrong track.

Other events occurred on the day the news story appeared—September 11—to ensure that it never received attention, and much happened in the weeks immediately following that would render it irrelevant. Today, just over a year into George W. Bush's presidency and four months after the terrorist attacks on New York and Washington, much of the anxiety it ascribed to GOP leaders has evaporated. Not only the President but the Republican party is enjoying broad, even exuberant, public support. According to a *USA Today*/CNN/Gallup poll published in mid-January, more Americans believe that the country would be better off if the Republicans controlled both houses of Congress, and more trust Republicans with the budget, the economy, and the military. A *Wall Street Journal*/NBC poll found seven out of ten Americans believing that the nation is headed in the right direction. After the President's State of the Union address on January 29, the numbers only went up.

None of this needs explanation, but the more important question is whether it can last. Most observers have doubted it. For one thing, they point out, Bush's personal popularity—running over 80 percent in most surveys—is not being translated into new support for traditional GOP issues like tax cuts or school vouchers. For another, some of the policies that were put into place after September 11—specifically, increased powers for law-enforcement agencies and a return to deficit spending—strained the fragile GOP coalition itself, alienating both libertarians and anti-big-government conservatives. In the meantime, the war against terrorism has seemed at least momentarily to recede as an all-consuming issue in the public mind while other matters, including the Enron collapse, have come to the fore. "Politics as normal is back," declared the *Economist* in early January. "It is as if the attacks and the change in public sentiments never happened."

Well, time (and the President's determination) will tell about that. But "politics as normal" is certainly what the Democratic party has been looking to restore, and what was strongly conveyed by Senate majority leader Tom Daschle in January. In a

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speech billed as a major policy statement, Daschle provided the first glimpse into what may serve as the party's battle plan for this fall's elections. In nearly every respect, it sounded exactly like what Daschle and other Democrats had been saying about Republican policy throughout the spring and summer of last year.

Of course, Daschle was effusive in his praise of Bush's handling of the war against terror. But his real subject was economic policy, and specifically the tax cuts that Bush had signed into law the previous spring. Using the kind of hyperbole normally reserved for speeches on the Senate floor, Daschle thundered that these cuts had led to "the most dramatic fiscal deterioration in our nation's history"—he was referring to the current economic recession, which in point of fact had officially begun long before enactment of the cuts—and were chiefly responsible for our disappearing budget surplus. While Daschle himself did not go so far as to call for repeal of the tax cuts—after all, fully a dozen of his Democratic colleagues in the Senate had voted for them—his colleague Edward M. Kennedy, in another speech a week later, urged postponing large parts of them, echoing Daschle's faulty logic that "unaffordable tax cuts . . . lead to growing federal deficits."

WHETHER, COME November, the debate over the tax cuts will prove a decisive issue is highly questionable. The *Washington Post* described the Republican reaction to the two speeches as "gleeful"; White House spokesman Ari Fleischer suggested that the Democratic leadership "aches in its bones to raise taxes," insinuating that Republicans ached in *their* bones for Democrats to embrace the issue. And this nicely evokes the present Democratic dilemma: in a mid-term election year, with the economy faltering, the party out of power *should* be a looming threat, war or no war. (Indeed, in most mid-term elections in the 20th century, the party in power in the White House typically lost almost as many House and Senate seats in wartime as in peacetime.) But it is not at all clear how the Democratic party will be able to capitalize on this trend.

Rather than offering a distinct or fresh path for legislation, Daschle and others seem wedded to tired Democratic themes: expanded government payments for the unemployed; financial assistance for "displaced workers" laid off as a result of international trade agreements; tax credits for selected industries; "lifelong" federal training programs; and an expansion of the already financially unsustainable Medicare program without any structural reform. Nor do the Democrats seem to have much waiting in the wings. The "Patients' Bill of Rights," the source of so much legislative energy and political posturing last summer, appeared to be thoroughly forgotten until the President himself mentioned it in his State of the Union address. An education bill that was the alleged cause of Senator James Jeffords's defection from the Republicans was signed by the President in due course and is unlikely to be revisited. Even the Democrats' call for more federal spending on homeland security has been undercut by the squeamishness of many prominent Democrats themselves when confronted with Attorney General John Ashcroft's proposals to enhance the power of law enforcement against suspected terrorists.

The Democrats have also lost the foreign-policy card. Bush's inexperience in foreign affairs, together with his "cowboy-style" unilateralism, had provided a rich field for partisan sniping in the months before September 11. The President's controversial refusal to endorse the Kyoto treaty on global warming, his insistence on increases in defense spending, his uncompromising commitment to strategic missile defense—all these led Democrats to think they might have a competitive advantage in foreign policy. No more.

Finally, conspicuously absent in current rhetoric is the "new Democrat" theme that breezed fitfully through the Democratic caucus during the Clinton years, with its emphasis on reforming government entitlements and experimenting with private-sector solutions. Why it should be absent is not altogether clear—perhaps it smacks too much of Clinton himself for comfort—yet the fact is that Daschle's speech openly distanced itself from "New Democrat" ideas and attitudes, in the end preferring no unifying agenda to a possibly risky one. The same general skittishness may well be what prompted other Democrats to leap on the Enron story as if it were political gold.

To be sure, the financial collapse of the energy company and the apparent criminal deceit of its executives and auditors were richly deserving of congressional scrutiny. Too, in its generosity to political candidates, Enron had heavily favored Republicans, and had championed the deregulatory and free-market agenda that was closely identified with the Republican party; Kenneth Lay, its chairman, enjoyed close ties with senior members of the administration, including the President. Even though no evidence surfaced of public corruption—as was well known, the administration did nothing to help



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Enron, despite desperate last-minute pleas—Democrats could hardly restrain themselves from cranking up the Washington scandal machine. On January 14, a *Washington Post* interviewer quoted an unnamed Democratic strategist:

> Democrats are very excited about this because this gives us a hook to bring this guy [President Bush] some accountability, plus there's no way it's not going to be a distraction for them. Privately, Democrats are almost unanimous in seeing this as a significant political opportunity.

By late January, no fewer than five separate Senate committees were holding hearings on the collapsed company, and the Democratic strategist James Carville was circulating a memo predicting hopefully that the Enron scandal "has the potential to shape the entire political environment for 2002."

Once again, however, the question arises as to whether, and for how long, this will continue to fly politically. The basic truth remains that in a year during which they might otherwise be poised to recapture the majority in the House and enlarge their one-vote hold over the Senate, the Democrats have had little to offer but a package of well-worn legislative proposals laced, recently, with scandal-mongering. Nor are their hopes likely to be buoyed by electoral factors of a narrower kind.

This is a redistricting year—the once-a-decade ritual in which congressional districts are redrawn by state legislatures according to census data—and Democrats were hoping that the addition of new seats would create the possibility of tremendous shifts in the makeup of the House. But as the results of the latest redistricting have emerged, those hopes have begun to fade. Although Democrats need a swing in only six races to take back the leadership of the House, it is not obvious where the half-dozen victories will come from.

In 1992, the last congressional election affected by redistricting, over 100 House seats were considered up for grabs. But this year, in the estimation of *Roll Call*, the weekly newspaper focused on Congress, fewer than a dozen races may be toss-ups. That could be good news for Republicans, who will be able to concentrate resources in a handful of must-win districts. In the meantime, a different constellation of forces may work to the advantage of the GOP in Senate races, where the margins are also slim. Although the retirement of long-serving Republicans like Phil Gramm (Texas) and Jesse Helms (North Carolina) has opened opportunities for the Democrats, Republicans have recruited strong candidates of their own in these particular states. And in other contested states like New Mexico, Virginia, Kansas, and Oregon, Democrats so far have been unable to field serious challengers against GOP incumbents.

The Democratic dilemma extends beyond congressional politics. Ever since Bill Clinton left office a year ago, having managed in the end to drive away even his most stubborn defenders, the Democrats have struggled in vain to find someone to take his place as a national leader. Despite Daschle's sometimes shrewd skills in positioning the Senate against the White House, he has never been a towering figure in national politics; nor has he helped lead the party toward any fixed theme. In January, fewer than 40 percent of Americans responding to a *USA Today*/CNN poll had a favorable impression of the Senate majority leader after several weeks in which he was the object of steady and largely positive media attention.

Elsewhere in the Senate, the pickings are no better. Joseph Lieberman has failed to build on his moment in the limelight as Al Gore's running mate, and his readiness during the 2000 presidential campaign to abandon once strongly-held positions on school vouchers and private Social-Security accounts robbed him of the moral authority he once enjoyed. John Kerry of Massachusetts is often spoken of as a presidential aspirant, but over the last year he has failed to assert leadership on any issue. John Edwards, a freshman from North Carolina and a wealthy former trial lawyer, is often mentioned as a comer, but it is too soon for him to be tested.

There may, of course, be other contenders, but they are also problematical. Former Senator Bob Kerrey of Nebraska, now president of the New School for Social Research in New York, certainly enjoyed national prominence in his career in Washington and was not afraid to introduce new ideas to the Democratic establishment. But lingering questions about his role in a massacre while serving as a Navy SEAL in Vietnam may have permanently removed him from high-profile electoral politics. Richard Gephardt, the House minority leader, is always mentioned, although he has not really enhanced his national standing during the fourteen years since he last campaigned for the Democratic presidential nomination. Among governors, Gray Davis of California, once the most promising and ambitious of Democratic leaders, has been buffeted by the energy debacle and the state's increasingly uncontrollable budget crisis and is now facing a significant challenge from a Re-



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publican field that includes Richard Riordan, the former mayor of Los Angeles.

No one can ever discount the ambitions of Ted Kennedy, whose recent prominence in the tax-cut debate proves that he is still a considerable force within the party. Nor is he the only liberal Democrat with national standing: Senators Hillary Clinton and Jon Corzine have both taken prominent places in the party hierarchy, though neither one of them is likely presidential timber. Still, all of these figures are a powerful reminder of persistent divisions between the party's centrist and liberal factions, divisions that were evidenced vividly during the 2000 election in the candidacies of Bill Bradley and the spoiler Ralph Nader—and that are every bit as fractious as analogous splits in the GOP.

And what, finally, about Al Gore? Having made only rare appearances since President Bush took office, he is in some sense a fresh face (if one with a beard). There is no doubt that Gore remains both the most widely known Democratic politician and the most seasoned national campaigner. A Gore-Bush contest in 2004, given the statistically tied results of the last contest, would have the potential drama of a rematch, the first in presidential politics since Adlai Stephenson's second run against Dwight D. Eisenhower 45 years ago. But it would also be the third time that Gore has sought the presidency and his fourth time on a national ticket—another sign of the thinness of the Democratic field.

Of course, it is impossible so early in the game to predict anything at all about the next presidential contest. But surely *something* is awry in a party in which, as of today, the only figure actively putting together a 2004 campaign is Al Sharpton.

NONE OF which means, however, that the Republicans are in for a free ride in November; far from it. Nationwide, the balance of power remains evenly divided between the parties, and when it comes to agenda-setting, the GOP can often seem, and be, as clueless as the Democrats.

It now seems clear that, the current resurgence of GOP popularity notwithstanding, the brash and confident Republicanism that gripped the Congress through the 1990's is a thing of the past, the Contract with America a dim memory. Privatizing Social Security, overhauling the tort-law system to diminish the strength of trial lawyers, promoting school vouchers, dismantling the machinery of affirmative action in federal hiring—these are simply no longer part of the national political debate. A combination of war, recession, and a President who never fully shared the reformist zeal of the "Republican revolution" has tabled the party's more ambitious agenda.

Contributing to the shift is the fact that Republican leadership, in Congress and across the country, is also undergoing change. Not only Senator Phil Gramm but House Majority Leader Richard Armey, another Texan who has stubbornly promoted free-market ideas, is due to retire at the end of this year. With the departure of Jesse Helms, the party will lose its most vigorous and controversial champion of a conservative cultural agenda. And similar changes are due to occur or have already occurred at the gubernatorial level. Two erstwhile Republican strongholds, New Jersey and Virginia, were sites of Democratic gubernatorial victories in November 2000. Wisconsin and Michigan, both of them centers of activist Republican reform for over a decade, are likely to move into the Democratic column this fall.

That leaves the future of Republican politics—and thus the entire question of whether we are back to "politics as normal"—in the hands of the President. While Bush's handling of the war in Afghanistan clearly united his party, and has just as clearly won him huge support in the country at large, what remains to be seen is whether he can take advantage of the moment and of his extraordinary popularity to reshape the bitterly fractured political climate that confronted him when he took the oath of office just over a year ago.

AT THAT time, it was widely predicted that Bush would be utterly incapable of governing, or that in order to do so he would have to make significant concessions to the Democrats—creating, in effect, a government of national unity. The reality turned out to be more complicated, and more paradoxical. To the dismay of his critics, Bush proceeded to pursue many of the contentious issues he had campaigned on. In doing so he won a few battles (notably tax cuts and fast-track authority to negotiate trade agreements) and lost a few, but he stuck to his principles on everything from faith-based initiatives to missile defense to the Kyoto and germ-warfare treaties to stem-cell research.

But much of his first six months was also taken up with something else: namely, prolonged, demoralizing negotiations with Congress on education, health care, and trade. On these fronts, the country saw not a determined President battling for a distinctive agenda of his own but a White House interested above all in avoiding the appearance of gridlock. And here a deep irony made itself felt: for all Bush's talk about bringing a new spirit



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of compromise to Washington, it was in pursuit of bipartisanship that he most undermined both his own cause and the cause of bipartisanship alike.

The education bill, which Bush considered one of his highest priorities, quickly became a vehicle for testing the new spirit of compromise, and the new spirit of compromise just as quickly took priority over substance. School vouchers, which Bush had defended throughout his campaign, were the first item to be taken off the table, followed by a diluting of the administration's carefully crafted requirements for annual testing. These compromises were accompanied by an enormous increase in federal spending unlinked to improved school performance. The result was a 1,000-page bill, signed into law this past January, that, at best, could but modestly improve educational achievement and/or accountability.

As policy, the bill was admittedly better than nothing. But as a political matter it was a disaster. The "No Child Left Behind Act," as it became known, was intended to be a showpiece of Bush's willingness to work with Democrats. Ironically, it was precisely this legislation that created the greatest division in Washington. In the midst of negotiations over the bill, a disgruntled James Jeffords switched his party affiliation from Republican to Independent, returning control of the Senate to the Democrats for the first time in six years and ending the pretense that personal charm and bipartisan backslapping could overcome traditional enmities. Henceforth, and except for the legislation passed in the immediate wake of September 11, Congress would remain impervious to the new spirit of compromise touted by the President.

The Jeffords defection also had a deleterious effect on the Bush White House. No longer confident that they could successfully steer their agenda through Congress, the President's men, in league with some (though not all) House and Senate Republicans, now immersed themselves in issues that were the priorities not of their own party but of the Democrats. The best example was the "Patients' Bill of Rights," which suddenly emerged as the most pressing piece of legislation in Washington.

This bill, which had been floating around the Capitol almost since the defeat of the Clinton health-care package in 1994, was ostensibly aimed at allowing patients to demand a greater level of service from health-management organizations (HMO's), the primary providers of managed health-care services. In practice, it was a means of expanding the portfolio of trial attorneys desirous of ending the general immunity of HMO's from civil litigation. Like similar measures in earlier years, the 2001 version of the bill was accompanied by a multi-million dollar lobbying, polling, and advertising campaign that had the full support of the Democratic leadership.

Last summer, it became evident that the White House wanted to strike a deal. Soon there were rival bills in Congress, one supported by the administration, the other by the Democratic leadership. The differences between the two were largely cosmetic, the key point of contention being whether patients should be allowed to sue their HMO in federal court (the White House position) or in state court, where they could expect larger jury awards (the Democratic position). In either case, it was obvious that the legislation would neither expand insurance coverage for Americans, nor improve the quality of care, nor lower costs—most experts conceded that either version would significantly raise them.

The President's willingness to engage in this obtuse debate disheartened many of his supporters. What it really suggested was how deeply the White House had been stung by the Jeffords defection. No longer did the President appear determined to set his own course; rather, he seemed prepared to concede whatever was necessary to make himself appealing to his critics. On August 5, at the start of his month-long vacation, the *Washington Post* reported that the Bush team was working on new ideas to enhance the President's attractiveness to women voters. Both Bush and his party seemed to be scrambling for an identity.

So here we now are, post-September 11, at the start of the second year of the Bush presidency, and at the height of the President's personal popularity. Has the war changed everything, or are we back to "politics as normal"?

The best (and most disturbing) evidence that the war has failed to change the culture of Washington was on display during the negotiation over the "stimulus package" at the very end of 2001, when the White House and the Senate Democratic leadership broke down along familiar lines; neither side prevailed, and, in the end, no legislation passed. Although some thought Bush succeeded in retaining the upper hand, what was most striking about the episode was that the White House had once again allowed itself to be drawn into debating only the terms set by the Democrats. In its final version, the package fell apart not on matters of principle but on the question of whether the President was prepared to spend "enough" on unemployment and health-care benefits for the unem-



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ployed—a measure that no economist believed would stimulate the economy in any real sense.

Whether things would continue along this dispiriting path was a question that many hoped would be answered by the President's State of the Union address. It was answered partially. The main emphasis of the first half of the speech, in which the President focused tightly on "the pursuit of two great objectives"—destroying terrorist camps around the world and preventing terrorists and others from obtaining weapons of mass destruction—was powerful and sensible. As even his critics now admit, Bush dominates the overall foreign-policy agenda with real authority. Nor will his plans either to increase the Pentagon budget significantly or to put considerable resources into domestic security find many dissenters.

The problem came in the second half of the address. The White House is, plainly, haunted by the economic recession—and with good reason. As no one needs to be reminded, the President least of all, in the early 1990's it was chiefly the depressed economy that ended George H.W. Bush's soaring popularity after the Gulf war. But neither does the current President Bush have much control over the recession, let alone a solution to offer.

Many of the old Republican remedies for a weak economy—cuts in marginal rates, fewer regulations, generous tax concessions—are simply not in the cards; the budgetary and political climate will not permit them. And so Bush's message to Congress contained a lengthy list of proposals ostensibly aimed at boosting the economy but more likely intended to counter the charge that he has been neglecting domestic policy. The list itself had its strong points and its weak points, but it left an impression of aimlessness and inattention. Worse, some of the items on it, like the call for an increase in veterans' health care, new regulations of pension plans, and—yes—a Patients' Bill of Rights sounded eerily similar to items on the wish list offered by Richard Gephardt in the official Democratic response to the speech. Along with Gephardt's proposal of a bipartisan "economic growth summit," the whole exercise took on the look of a recipe for still more protracted and fruitless negotiation over Democratic hobbyhorses.

Perhaps the most salient omission in the State of the Union message was any reference to Bush's onetime signature theme of "compassionate conservatism." In the entire 50-minute address there was only a single fleeting reference to the faith-based charity initiative that, a year ago, he had thrust to the forefront of debate. In its place, Bush introduced a new theme—the "culture of responsibility"—which has the virtue of resonance but cries out for definition.

If by "responsibility" Bush means concentrating on the larger tasks at hand—prosecuting the war on terrorism, strengthening domestic security, resisting Democratic efforts to obstruct or undo the tax cuts already passed, and, through such ideas as a national Citizens Corps, energizing the spirit of voluntarism so much on display since September 11—he may indeed have hit upon a formula that can successfully guide the country through the inevitable difficulties at home and abroad in the period ahead. But if "responsibility" becomes a cover for reverting to the pre-September 11 mode of trying to establish consensus with congressional Democrats and pressing for whatever compromise legislation can be gotten, the President may yet end up in the same political quagmire that trapped his father.

DURING HIS first year in office, even apart from September 11 and its immediate aftermath, Bush showed a capacity for impressive acts of leadership and for sticking to his instincts and convictions. Whether in his choice of cabinet members, his determination to ignore the opinion of the "world community" on missile defense and the Kyoto treaty, his insistence on squarely confronting the moral issue in the debate over stem-cell research, or the discreet seriousness and dignity he brought to the White House, Bush conveyed a strong sense of confidence, independence, and executive skill. But he has also shown that he can be tempted into small-bore debates on other people's turf: into, that is, bipartisan "politics as normal" of the kind that tied up Congress and the White House for much of 2001. For the sake of the country, and if he means to preserve his party's political fortunes, the path of least resistance is the path that will need to be resisted most.



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# With God in Baton Rouge

*Jennifer Moses*

I'M DRIVING my minivan down Florida Boulevard in Baton Rouge, Louisiana, past the SnackShack, the Ford dealership, the U-Lock-It, and the Super Chicken, listening to Lorraine, who is sitting in the seat next to me, talking. It is a hot, sticky October day—the overcast sky like a blanket, keeping the heat in. Lorraine likes to talk. Correction: Lorraine loves to talk—and to smoke, sing, eat, anything that will keep her mouth moving. She is forty-four, so dark that her skin shines like polished mahogany, and growing fat from all the potato chips and pork rinds that she eats when she's not talking.

"Honey, let me tell you," she is saying. "How I get here? Don't right know. Didn't mean to get here, but here I am. Lord Jesus. Jesus loves me, you know? Loves you, too. He do, even if you don't know it, but he do."

I nod.

"How many children you got?" she says, changing the subject.

"Three," I answer.

"How old are they?"

My eldest, Sam, is twelve, I tell her, and my twins, Rose and Jonathan, are eight. Then I wait for the story that I know is coming—the one about how Lorraine landed in prison. She has told it before, but because her mind doesn't work quite right, she doesn't remember.

JENNIFER MOSES, *an essayist and short-story writer, is at work on a book about being Jewish in the deep South.*

"Ain't that nice now," she says in her smoker's contralto. "Two boys and a girl. Praise Jesus. Bet they favor you. My own children, I got two boys and three girls, all grown. First there's Larry. He make me a grandmother first. His father was something else. Lord I loved that man. Would have done anything for him, sure enough. I give him three fine children. Three fine ones, and what he do? I was working up at the printing press then. Had me a good job. Steady. I was going to school, too. LSU. Working full shift every day of the week, don't you know it, child, and going to school, too. Come home. What do I see? That man in bed with my favorite auntie. My favorite damn auntie. Mamma's youngest sister, don't you know. Caught them in my own damn bed. Didn't think nothing about it. Just ran into the kitchen, grabbed me the gun in the cabinet, and shot that motherf—er right in the head. Missed and shot him again. 'Cause I wanted to kill that mother dead."

She looks out the window, begins to hum along with the radio. "Shot him good," she says. "Spent a week in the hospital. But you know, he still living."

"Do you mind if I turn the radio down?"

"Still out there catting around. But me, I get sent down to St. Gabriel," she says. "Five years in St. Gabriel. Got out for good behavior. But five years, five years plenty long, and I ain't lying."

I turn the radio down.

"But you know, it when I get *out* that the trouble started. While I locked up I good as gold, but when



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I get out, oh, Lord, that's when things start going bad for real. Stayed with my mamma, and got a job, sure enough. Working at the dry-cleaning plant. But every day I come home, and I do a little stuff. Every damn day. Relieve my pain. One day, though, everything change: I come home, and set everything out, all easy like. I got my cocaine right here on the table, right in front of me, like I always do. I got my beer right next to it, nice and cold, straight from the refrigerator. And my pack of cigarettes. That's when I heard it."

An SUV filled with frat boys tailgates us for a couple of blocks, and then, with a roar, passes on the left going about 70 miles an hour, rock music blaring out the open windows, purple and yellow Louisiana State flags fluttering in the wind.

"That's when you heard what, Lorraine?"

"I reach for the cocaine, but that's when Jesus call me. Heard him as clearly as I hear you. And Jesus said, 'Lorraine, my love, put that down.' So I reached for the beer, and Jesus said, 'Lo, my love, put that down.' He took the taste for it right out of my mouth. So then I reached for the cigarette, but he didn't say anything. Which is how I know I still have his permission to smoke."

This part of the story is new to me.

"I'm truly blessed," Lorraine says.

LORRAINE HAS AIDS. Her brother, who was a cross-dresser and a prostitute until his own death from AIDS just a few weeks ago, had lost his vision, then his ability to control his bladder, and finally his sense of his own individuality. Lorraine doesn't seem aware that she, too, could succumb to the more dismal ravages of AIDS, but it's hard to tell what exactly Lorraine does or does not understand, because her brain is slowly being eaten away by disease—cytomegalovirus ventriculoencephalitis, to be precise. She forgets things, like whether or not she still needs to go to the bathroom, and what your name is.

"You just got to believe," she says.

Which is a good one, given that, though I admire what appears to be Lorraine's deep-seated faith, and even envy it, I myself am not entirely sure that there is a God at all.

"Just got to call on Jesus," she adds.

Only I am a Jew. Not that Lorraine knows it, or that I want to tell her. It would just complicate things, and I don't want to get into a big theological discussion with her about why I haven't accepted Jesus as my personal savior, and I certainly don't want to give her a capsule history of Christian anti-Semitism. What does Lorraine, or for that matter anyone I know, have to do with all of that? Lorraine simply loves Jesus, and she wants me to, too.

Which is no real surprise: you can't live in Baton Rouge, as I do, without bumping up against Jesus just about every time you walk out of the house, not only on your doorstep in the form of local missionaries but also on your neighbors' lips, on the billboards that dot the highways, on the airwaves, and especially in the hundreds of churches that seem to define—even more than petrochemical plants and shotguns and Spanish-moss-draped live oak trees—this particular corner of the world.

"Take your pain to Jesus, honey," Lorraine says, as much to herself as to me. And then, looking straight at me, she says, "You a good Christian, child. You really is."

Lorraine lives, along with eleven other HIV-positive adults, at St. Anthony's, a residential treatment facility where I began doing volunteer work one morning a week shortly after my twins started kindergarten. I signed on for this job chiefly because I wanted to give something back to a community that, for no discernible reason, had put me and my family on easy street, and also because Jewish tradition instructs us to visit the sick. One rabbi in the Talmud goes so far as to say that he who does not perform this commandment is like one who sheds blood.

I had another reason for choosing this particular kind of work: my mother, 1,500 miles away in Washington, D.C., had been struggling with cancer for years, and from such a distance there was next to nothing I could do to comfort her. But I could look into the face of death itself, or into the faces of the dying, and in this way perhaps prepare myself for things to come. Plus, if I were being completely honest, I also wanted to see if I could *take* it. I wanted to know if I, the ultimate weenie, the girl who cried whenever Mary Tyler Moore threw her hat up into the air at the beginning of the *Mary Tyler Moore Show*, had the stuff.

That being said, my job at St. Anthony's chiefly involves running errands and reading the New Testament aloud, which at times, given the anti-Jewish passages, is discomfiting. Also, hanging out with the residents, most of whom are destitute, and taking them to doctors' and dentists' appointments. That is why I am out now, driving around Baton Rouge on a typically disgustingly hot and humid day. Lorraine had wanted to get cigarettes. Then she wanted to get a sixpack of Coke. Then she wanted to go back to the discount cigarette store and get a lighter.

One problem with the job—I am thinking as Lorraine and I tool along—is that it's boring. The other problem is, people die.



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Geraldine died in November 1998. She was my first. Before falling sick she had made a career as a check forger. Landed in federal prison once, in Virginia, and did two stretches in the Louisiana State Penitentiary for Women. "Oh," she would tell me, "we had us some good old times, we did indeed! Me and my old man, he was working delivering flowers, we'd start drinking beer around nine in the morning, keep going, have us a party in the back of that van! But in prison, I saw the light. Became a Christian. Confessed my sins and was washed clean. Jesus is good, oh Lord, he is good to me!"

In Geraldine's room at St. Anthony's there were snapshots of her children and grandchildren thumb-tacked to the bulletin board, and pastel curtains hanging in the one window. She kept her things neat, and her room spotless. She was fifty-four, and had been the first black child allowed to be born in Baton Rouge General Hospital. By now she was gaunt—skeletal, even, her cheek bones hyper-prominent, her eyes enormous, patches of her scalp showing through the scant hair on her head, toothless—but until a couple of days before she died she retained enough energy, enough sense of fun, to cut loose. I don't think she was scared of anything, even dying.

Once Geraldine insisted that I drive her to her auntie's house—an "auntie" need not be your aunt by blood but rather an older, maternal woman for whom you have special affection—to deliver a box of clothing that Geraldine had been keeping for her own lover, himself in a coma in the public hospital. The house was in a neighborhood straight out of an Eastern liberal's worst nightmare: sagging front porches, cardboard taped over broken windows, garbage and skinny dogs in the street, vacant-eyed young men huddling together. Inside, the stench was terrible: a combination of old dirt and rancid diapers and beer and rot and body odor, of generations of furtive couplings and freezing cold winters and broiling hot summers and not enough food and not enough light and no access and no way out. There was a sagging sofa. Pictures of Jesus, blue-eyed and halo-lit, were tacked on the walls. Duct tape held the windows together.

What was I doing there? I was raised in the Washington, D.C. suburbs, bred to decorate and play tennis and make my grandmother Helene's fabulous pot roast. I felt as self-conscious as when my mother insisted on calling me Jen Hen Rooster Dooster in front of my friends. Auntie looked me up and down—Geraldine had been too tired to get out of the car—and then indicated that I was to put the box in the corner. I did as instructed, went back outside, drove back to St. Anthony's. I was shocked when I returned a week later to be told that Geraldine had died the night before. Her relatives were in her room, throwing her belongings into Glad bags.

Gerald was next. He died in May 1999. He was in his mid-thirties, from Sunshine, Louisiana, and his country accent was so thick, and he spoke so quickly, that I could barely understand him. His legs were useless, two heavy sacks of unmoving infection—polyradiculopathy; his sight was failing—CMV-related retinitis; there were days when he was certain that angels had visited him the night before, and days when he swore that the mother of his one son, a pretty woman who had died a year or so earlier, also from AIDS, had beckoned him from heaven—cranial nerve palsies, nystagmus, ataxia. "I'm going to a better place," he told me over and over, and one day he beckoned me to his bedside and confided that he himself was an angel. I read him the 23rd Psalm, Paul's second letter to the Thessalonians, Daniel in the lion's den. I have never known a sweeter person.

I was at St. Anthony's the morning of the day Gerald died. By then, he'd already been visibly failing for weeks: he could no longer see anything but shadows, his face had taken on an empty look, and he dozed with his sightless eyes open. Though I no longer felt that Gerald was present, and I don't think he heard me, I went to his room and told him I would be back to see him again. Which even I knew was a lie. He died that afternoon, and I didn't even go to his funeral in Sunshine because at the time I was trying to promote my first, just-published book and my publisher had set up a phone interview with a writer from a woman's magazine.

"Oh sweetheart," Lorraine now says in her lisping, Southern, sing-songy voice as I swing the minivan into the parking lot at St. Anthony's. "I love you."

"I love you too, Lorraine," I say, though I don't mean it. I don't love Lorraine at all. Not even a tiny bit. The people I love—truly love—are few, and Lorraine barely scratches the surface. And yet when she opens her mouth and sings along to the "Queen Latifah" theme from TV or, even better, lets loose with a gospel number—her voice rich and flowing and mellow, a river of melted chocolate running through her vocal cords—every cell in my being vibrates.

*Go where I send thee. How shall I send thee? I will send you one by one . . . .*

"See you next week, Lorraine," I say, jumping back in my minivan, finding the NPR station, heading for home.



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As a child growing up in McLean, Virginia—the same cushy suburb where Robert F. Kennedy's family lived and where Kenneth Starr, to the continuing disgust of my mother, now makes his home—I didn't know anyone, either Christian or Jewish, who professed any kind of real faith. The only person who even came close was Mae Carter, our black Baptist maid, but she parked her religion, along with the oversized pocketbook that she always carried, at the back door, and never spoke about such matters at all, at least not in my presence.

Occasionally, on nights when my parents were out, Mae did remind me to say my bedtime prayers. I would recite aloud a simple prayer that my father had composed, asking God to bless our family and help make me a good child—and then, after Mae had turned off the lights, I would add one or two prayers of my own that were far more fervent. I was a fearful, lonely, anxious child. Every night I begged God to spare me and my loved ones, including the dogs, from any number of calamities, each of which I would have to name, individually. But no one knew about my silent nightly ritual—no one would understand it—and as I grew older I dropped it.

And so the pattern continued as I grew up, went to college, moved to New York to work in publishing, married, became a mother, and moved back to Washington, where I grew my own vegetables, learned to make pesto, and developed a passion for gleaming hardwood floors and tribal rugs. No one in our circle, even among the church- and synagogue-goers, even among the most rigorously observant, was truly a person of faith.

Then my husband took a job as a professor at LSU in Baton Rouge and we moved, with our three young children, to the Bible Belt, where just about anything that happens is attributed to the will of God. And not only by ministers: my very Waspy, very blond friend Betsy talks about her "mission" to work with small children; my neighbor Ellen talks about how God wants her to use her gifts and would be seriously annoyed with her if she were to stifle them. Even the governor does a version of God-speak: last year, he ascribed the rains that finally broke a long drought to the power of prayer. True, the governor is a moron, but the point is that no one blinked an eyelash, either when he first asked Louisianans to pray for rain or when he proffered his explanation for how it eventually arrived.

It was all very new to me; but I must admit I rather liked it. My rational mind kept telling me that God, particularly for people like Lorraine who find themselves in a world of trouble, is nothing more than a security blanket. This is the God Who forgives you your evil ways, and all you have to do is call on Him at the very end, and—presto!—you get into heaven. Still, on the whole I felt more at ease among the faithful in Baton Rouge than I had among the Ivy-educated lawyers and doctors and policy wonks and journalists in Washington. I *liked* the idea that God cared—liked it better than the idea that He was no more than a big sop for those who could not take reality or, alternatively, that, if He existed, it was in some way that was beyond human comprehension. At St. Anthony's, not only did He exist, but also, at times, He came down to earth to say howdy or give a thumbs-up.

I had been volunteering for about a year when my book was finally published, to rave reviews from my closest friends and family and almost utter silence elsewhere. Then I turned forty. When I walked into St. Anthony's on my regular day I discovered everyone sitting in the living room, with birthday party hats on their heads, waiting to eat the fantastically delicious peach-torte cake that one of the residents, Little Chuck, had made in my honor. Shortly thereafter, while on summer vacation in Maine with my family, I had what I can only call a crisis of faith.

It was a very physical thing. Sitting under the gorgeous arching blue sky, smelling the pine-scented air, listening to the birds call to each other, watching my three children, all tanned and freckled like in a Gap ad, playing hide-and-seek among the trees, I felt my faith, never strong to begin with, leak out of me like milk out of a smushed-up carton in the back of the car. I felt it in my chest, where my heart tightened up into a hard little nugget, angry and mean, slit-eyed and fulminating, and I felt it in my extremities, which suddenly seemed filled with something tingly and stinging—some existentialist Pepsi Cola, mixed, perhaps, with acid. I had had anxiety attacks all my life, but this one felt different and more threatening.

I thought I knew enough about Judaism to know that, at least on one level, it does not require of you an absolute and constant belief in God—a quality that I had always found vastly comforting. A friend of mine, a rabbi, liked to talk about Jews as "God wrestlers," in the sense in which the patriarch Jacob in the Bible wrestles with the angel and thereby earns his new name, Israel—meaning, as the angel informs him, "You have wrestled with God and with man and prevailed." Being a Jew in this sense means having a kind of divine permission to argue with the divine itself. Or as my rabbi in Baton Rouge was fond of saying: God is bigger than religion. But I was sweating buckets anyhow—the rivulets were



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pouring down my ribs and landing in the waistband of my newly purchased J. Crew walking shorts. My entire body shook with fear.

It's such a cliché that I am embarrassed to admit it, but my immediate crisis in faith came about courtesy of Darwin, that old joker. He had never bothered me before, even when I was a child and used to stare, fixated, at drawings in the *World Book Encyclopedia* of man emerging from the apes. So we emerged from the trees: what of it? In my own private cosmology, that hardly meant that God had not, somehow or other, also created us and breathed into our souls some yearning to reach Him. I just didn't think about it too hard. But now, in Maine, I was doing nothing but thinking about it, and my problems were magnified by my reading of Steven Pinker's *How the Mind Works*.

What I got out of this book—which I struggled with under the overarching blue Maine sky, reading and then re-reading paragraphs—was that we human beings had been fashioned by the forces of evolution to have minds capable of postulating God. Or, to put it another way, the ability to conceive of God was programmed into our common human hard drive over hundreds of millions of years and now served, along with our ability to make art and compose Budweiser jingles, as the outer limit of those qualities of high intelligence that gave our species such a ridiculous edge to begin with.

It made sense. On the other hand, it was awful, even obscene. Because a world without God—even for someone like me who had never been dead-certain that He existed in the first place—was a much lonelier place than a world set in the palm of His hand. And also, from a Jewish point of view, if God didn't exist, then the *mitzvot*, or commandments, starting with the Big Ten and moving on up through laws informing every aspect of life, including the commandment to visit the sick, ultimately meant nothing. If God was only a figment of our flimsy yearnings, why bother? I felt cheated; I felt like a fool who had fallen for the biggest Lothario of all.

One evening, I sat with my husband and my father under the miraculous dome of the sky—that wonderful northern sky undimmed by pollution or city lights—trying to sort things out. My husband, whose style of perception is highly cerebral, basically does not believe in God, but he values the entire Jewish tradition and has, over the years, grappled with its ideas. As for my Dad, he is an inveterate synagogue-goer and had raised us kids on stories of the happy days, back in his home town of Baltimore, when Jews were really Jews. And yet Dad also didn't snuggle up to God on any regular basis. In fact, as a family, we had never talked about Him at all. We talked about Israel. We talked about What Was Good for the Jews. We talked about anti-Semitism. The rest of my extended family had long since abandoned any kind of serious practice of religion at all, and my mother's view was that both God and religion were "crap."

"Dad," I finally said, "I'm having a little difficulty with God." We had had a wonderful dinner, and as we sat there under the stars I told him about Pinker, and how suddenly I felt both lonely and unhinged, for if there was no ultimate moral center of things then everything we call ethical was no more than a human confection. I don't know exactly what kind of assurances I expected to get out of this encounter, but I was hoping at the very least to be pointed in another direction, to be shown an error in my thinking that might itself point to bigger possibilities.

Dad leaned back, gazed at the stars, and said: "I've personally never believed in any particular conception of God, although I've found it fascinating to study how religious thinkers have grappled with the notion of the divine over the centuries, and I suggest you read, for starters, Maimonides." He continued in this vein for a while, and then—in an effort, I suppose, to make me feel better—said that if God Himself came down from the heavens to proclaim that He did not exist, he, my father, wouldn't change his way of life by one iota. "I'd continue going to *shul*," he said, "I'd continue observing *shabbat*, I'd continue studying Jewish history, metaphysics, and law, and I'd continue to embrace Jewish communal life—because, Jennifer, the Jewish tradition itself has inherent value, with or without God."

Which was all fine and good, but didn't help. What about the God of Abraham, Isaac, and Jacob? The God Who led the children of Israel out of Egypt? The God Who spoke through the prophets, imploring Israel to repent and return? The God Who loved Israel above all other nations? The God Who commanded "Justice, justice shall you pursue" and "Do not oppress the stranger, the widow, and the orphan"? I felt like the Little Prince, up there on his lonely planet in the middle of the vast cosmos. My husband counseled me to get to work again as soon as possible, saying that things would begin to make sense as soon as I was back at my computer. But this avenue seemed choked off, too: for me, writing and praying had always been complementary activities, a kind of working out, in words, of the story I wanted my soul to tell. But now the words themselves seemed meaningless—an endless stream of monkey chatter.



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WHEN ST. ANTHONY'S first opened its doors in 1986, most of the residents were gay: AIDS was then primarily a disease of homosexual men. But since then the face of the crisis had changed, and in Baton Rouge as in much of the South it was growing fastest among drug-abusers, many of whom were black, and affecting equal numbers of men and women. St. Anthony's has twelve bedrooms for residents, and at the time of my own crisis it was staffed, at the top, by a professional administrator and a social worker; but the people who really ran the show and knew what was going on were the "care-givers": health aides who typically worked in teams of two. These were the people who brushed the patients' hair and cleaned up their messes and wiped their spittle and blood and held their hands and said, "I love you," and "Jesus loves you," and "make damn sure you're taking your medication because if you don't you'll never get better and don't you know that we love you and we don't want you to die. Jesus is good, yes he is, there you go, drink all that juice, it's good for you!"

Depending on the season, too, there were particular residents who, by virtue either of duration or of their own leadership qualities, were "senior" in the eyes of staff and other patients alike—people to whom all would turn for help. When I started volunteering at St. Anthony's, in October 1998, the person in this position was Little Chuck. He had had a successful catering business before he became ill, and like a lot of people in the food business, he loved not only to cook but to take care of other people, mother-hen style. He was, in his own words, a fairy—his bedroom stuffed with more *tchotchkes* than a gift shop, the walls plastered with lewd posters of half-naked men. More than anyone else in the place, with the possible exception of Joyce, one of the care-givers, he knew everything that was going on. Who was sneaking alcohol. Who had spent the weekend smoking crack. Who was hiding potato chips in his room.

Not that he shared any of this information with me, at least not at first. It wasn't until I had been volunteering for six months or so that he began to warm up to me, and then to take me into his confidence. That was a big deal for me. Then he made that fabulous peach-torte birthday cake, and I knew that I had somehow passed through some gate. Now, no matter how badly I might be suffering from lack of faith, or how bored I might be as I *shlepped* around Baton Rouge in search of discount Kools or Little Debbie chocolate-fudge brownies—the kind in the blue box, not the kind in the pink box—I couldn't quit.

So despite feeling that something vital had been removed from my guts, draining me of vigor, and sapping me of the ability to put one word in front of the other, I could not really claim that, when I got back to St. Anthony's after vacation, I felt like a fraud. But I must confess that I did feel an odd sense of disconnect, which was only heightened by my crisis of faith. On any given day, I was present at conversations that centered on death and overcoming death through Jesus, and as a resident held my hand or let me give her a Kleenex, the assumption was that I, too, was on the Jesus boat. But I wasn't, and now I wasn't even sure that I believed in any kind of God, by any name, at all.

During my vacation, a new resident had moved in. Ieesha was only twenty-two but already visibly dying: she was covered with sores, her hands trembled, her feet were swollen, her eyes bled ooze. Nevertheless, she hung on, terrified of dying, demanding, whiny, and, as far as I could tell, utterly ignorant of what was happening to her, or why. I didn't like her, and sensed that she didn't like me, either. Nevertheless, every time I came, she would ask me to take her to the shopping mall. I would push her along in her wheelchair, and she would complain. If I took her to Sears, she decided she wanted to go to J.C. Penney's. If I got her to Penney's, she didn't like the merchandise. When I told her that I had to get going, she would begin to cry. I would apologize, wheedle, coax. I felt like slapping her, and felt guilty for wanting to slap her. She made me nervous. I also felt that, somehow, Ieesha knew—sensed—that I *was* a fraud. One more do-gooding rich white lady who simply didn't get it, and who, moreover, did not even believe in God.

But Joyce, the nursing aide, told me: "Don't take no crap from her, Jennifer. You the one doing her the favor. You don't need to take no lip." Of course she was right, and she ought to have known. Joyce herself had been working at St. Anthony's for years, doing whatever she thought it took, at any given time, to help, and she herself did not take crap, under any circumstances. "You treat me nice and I'll treat you nice," I had heard her say, more than once, to more than one uncooperative resident. Or: "You think Jesus wouldn't take his medicine? You better get down on your knees and thank your savior that you got this medicine that most people can't afford, and then you pick up that glass of water and take those pills." Everyone loved her, and more often than not, it was Joyce's face that would be the last that a dying resident saw. When Ieesha died, in late October, she was surrounded not by her own family—who had been absent the entire length of her stay—but by Joyce, another aide named Cathy, and Little Chuck.



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And now the deaths kept coming. Nathaniel—who had contracted the HIV virus from a blood transfusion and, until the day he could no longer get out of bed, had worked as a garbage man—died after a heroic struggle. Thomas died in November, Donny in December. A very pretty young woman with café-au-lait skin and two young children moved into Ieesha's old room and died the next day. Pody died. Kevin died. Ernest died. Some more people died whose names I cannot even remember. I didn't understand it. What was the point?

"They all going to a better place," Joyce said. Sure they were. "You just got to believe," Joyce said. But I didn't, and I certainly didn't believe in the beautiful fairy tale of heaven. There was no solace. "It's okay, faith is difficult," my rabbi finally said to me one day when I cornered him in the parking lot of our synagogue and told him about my crisis of the summer. He added: "The struggle itself is the proof that you're in relationship to the divine." But I didn't buy it.

Then, in the spring, Little Chuck died. He had broken his hip in December and landed in the hospital with a high fever and a raging infection. He stayed there for almost a month before finally coming back to St. Anthony's to die. He lay in his bed, under his quilts, in traction, with all those lustful, come-hither, half-naked men gazing down upon him. His T-cells had been virtually non-existent for more than two years. He had thrush, hairy leukoplakia, gingivitis, diarrhea, seborrheic dermatitis, fungal infections, retinitis. He died holding Joyce's hand. The last words out of his mouth were "I love you."

Shortly after Little Chuck's death, Joyce asked me whether I was planning to write any more books. I told her that I hoped to, but that the whole enterprise was complicated—agents, contracts, what's fashionable and what's not, blah blah blah. Basically, I told her nothing, partly out of a defensive attitude that I've developed over the years in an effort to ward off bad karma (so if you're a writer, how come I've never heard of you?), and partly because, in my experience, most people don't really understand that writing is more than a hobby. How could I tell her that yes, I was working on another book, but that since my crisis of faith I had felt so dry inside that the words weren't flowing, and that, even if they did, I was having problems with my agent—who wasn't returning my phone calls and hence made me feel like a geeky freshman girl with a crush on the high-school quarterback—and that even if I could manage to straighten things out with my agent and get all my work done, it was entirely possible that not one single publisher would be interested in my book? My own mother didn't really understand what I did; what could I expect from Joyce?

But she was not put off. "When you sit down to write, what do you do? Use a computer?" she said.

"Yes."

"You ask God to help you out?"

"No."

"Why not?"

I stammered something along the lines of how I felt it was selfish to ask God to help me write when there were so many more serious problems in the world. Thinking: any God who cares about my career isn't the kind of God I want running things.

"Nothing's too small for God," Joyce said. "He is the Creator, isn't He? And He gave you a gift of creativity, didn't He? Why wouldn't He want you to use it?"

The next time I sat down in front of my computer, I tried it. I closed my eyes, bent my head, and asked God to help me tap whatever gifts I possessed. I felt stupid, and in any event God didn't answer. The screen lay blank before me. I watched the dust motes dancing in the sunshine. I wrote a paragraph, then deleted it. I logged onto AOL, and messed around on the web for a while. I e-mailed some friends. I checked to see if any of them had e-mailed me back. Then I had lunch.

The next day was no better, or the next. When I returned to St. Anthony's the following week Joyce asked whether I'd come to my senses and asked God for help.

"Actually, yes," I said.

"Good. What He say back?"

"Nothing."

"He will," Joyce said. "Give Him time. He'll let you know when He's ready."

"I don't think so."

Joyce was silent for a few moments, then she looked at me and said. "Not everyone ready for God. But He gives us different gifts. He needs me, but see, He needs you, too. You a good person, Jennifer. You a good person." And off she went to tend to Augusta, originally from Nigeria, whose legs were so swollen that she could barely walk. "Gotta get you into a nice hot bath," I heard from down the hall. "Help ease your pain, girl. We gonna try to ease that pain."

When she came back, she asked again whether I would humble myself enough before the Lord to ask Him for help.

"I don't know," I said.

"How do you know unless you try?" Joyce said. "Got to give Him time."

So the next time I sat down to write, I called on the Lord to help me out, as best He could.

"Dear Lord," I said, "Please allow me to use the gifts that You have given me." I didn't hear anything, but I went to work anyway, and this is what I wrote.



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# Sex and the Marriage Market

*James Q. Wilson*

EVERYONE KNOWS that this country has suffered a remarkable rise in the number of single-parent, female-headed families, and that things were not always this way. Everyone also knows, and research confirms, that most such families are particularly bad for the children in them, who grow up without fathers, without safety, without a decent life or reasonable prospects for the future. Although the most recent census data suggest a halt or even a slight decline in the steady increase of such families, the fact remains that a large proportion of American children are now growing up and will continue to grow up in fatherless homes.

There are many explanations for this powerful change in our society, which first became noticeable in the late 1950's and early 1960's and by the 1990's seemed unstoppable. But one explanation that is often overlooked takes us into a complex and fascinating area of human behavior, raising questions of both biology and culture that are not easy to sort out. It has to do with the number of men who are available to be married in the first place. We sometimes forget what can happen in a society where either there are many more marriageable men than women or—as has been the case in the United States for quite a number of decades now—there are many more marriageable women than men.

Let me begin with the former scenario: imagine a society in which the number of men in their early twenties is vastly greater than the number of women of the same age. Because there are too few women to marry all men, the competition among men for women will become stronger. To find a wife or a sexual partner, men will have to work harder and promise more. This competition will raise the bargaining power of women, who, within the limits set down by custom and biology, will be able to demand more from their prospective mates.

Consider one such woman, Joan. If a man wishes only to have sex with her, she can, if she wishes, easily reject him for another man who is willing to marry her. If one suitor is less handsome, less intelligent, or less likely to be financially successful than another, Joan can choose the rival. And if one does not seem prepared to support a child or children, Joan can pass him over in favor of another who is committed to matrimony and fatherhood.

Of course, any given Joan might be different: she might shun the market altogether, she might marry her high-school sweetheart or a man she just met at the office, or she might not marry at all. But for women in the aggregate, the relative supply of available men and women will powerfully affect their prospects in the marriage market. Other things being equal, marriage will be more likely when men

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of the relevant age outnumber women of that age.

Now for the second scenario: imagine a society in which there are *fewer* marriageable men than women. What are Joan's prospects then? If there are not enough sexual or marital partners available, she may have to accept what a man offers. It may be a one-night stand, or a few dates, or living together. It may even be marriage. But if the marriage does not work out, Joan will not find a lot of unmarried men to choose from on the next round. And when it comes to children, a man may have so many other sexual opportunities that he cannot be counted on either to marry or to become an effective father. With men thus able to drive a hard bargain for their sexual favors, Joan may be more likely to stay unmarried, or even turn away from marriage altogether in favor of a career. If she does marry, she may have to settle for a man who is not her equal or her superior in financial or educational resources, and as a result of marrying down she may impair her ability to care well for her children.

In brief, when there are many more women than men in the marriageable age range, women will suffer in their efforts to find husbands. Many more of them will have lives like those depicted in the HBO series *Sex and the City.*

The number of men per hundred women in a society is called the sex ratio. When there are more men than women, we have a high sex ratio; when there are fewer men than women, a low sex ratio. Societies differ in their sex ratios, but in most societies unaffected by disturbances, the ratio will be a bit over 100, since as a rule more male than female children are born.

But disturbances do occur in history, and thus the ratio within a society can change radically over time, becoming vastly higher or lower than 100. A war, for instance, will result in the death of many men: in Great Britain and many other European nations between 1911 and 1926, the sex ratio dropped dramatically as a result of the carnage of World War I. Emigration usually involves the movement of more men than women: when men moved out of small English towns in the 17th and early 18th centuries to find jobs elsewhere in the country or abroad, many local women were destined to become spinsters. Prisons are disproportionately filled with male convicts, and a high crime rate can take a lot of men off the streets. Infant mortality affects more boys than girls. Men, especially unmarried men, are more likely than women to die from murders, auto accidents, alcoholism, drug abuse, and many common illnesses. All of these factors produce a lower sex ratio—that is, an oversupply of women.

Some societies have developed a way to deal with this oversupply: allow each man to have more than one wife. This practice, called polygyny, has been widespread in the past, especially in cultures where men were regularly engaged in war, raiding, and dangerous occupations, and today still occurs; among Muslims, it is authorized (up to a limit of four wives) by the Qur'an. And it is not hard to imagine why polygyny might be popular: having many wives gives a man a taste of sexual variety, a chance to ensure for himself a large number of progeny, and a reputation for status and power. But none of this is relevant to our society, which like every other Western one is monogamous and does not allow polygyny; and so the problem created for the marriage market by a low sex ratio can remain acute.

As for the opposite situation, an undersupply of women, that can occur when many die in childbirth. It can also occur when young girls are disproportionately made the objects of infanticide or child neglect, as has been true in several ancient societies, including Athens, and continues to be true in modern China. And it can occur in a country or region newly inhabited by immigrants: the American colonies were at first settled by more men than women, there were more men than women imported to this country as slaves, the frontier territories were heavily masculine, and the California gold-mining camps were overwhelmingly made up of men.

If in some places men have been able to adjust to an oversupply of women by taking more than one wife, why cannot women handle an excess number of men by taking several husbands? But no: with a few trivial exceptions, this practice—polyandry—is never found among humans. The striking difference between the number of polygynous and the number of polyandrous societies in history suggests that something important, something involving both culture and biology, dictates marriage patterns.

I shall discuss this below. But first let us revert to the connection between sex ratios and two things: how likely it is that a child will be born out of wedlock, and how likely it is that a child will be raised in a female-headed family.

The most ambitious and influential study of these matters is a 1983 book entitled *Too Many Women?* by Marcia Guttentag and Paul F. Secord. Their argument is this: when there is a high sex ratio—that is, many more men available than women—marriage will be commonplace and



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cohabitation will be rare, women will play more traditional roles, and children will be raised in two-parent families. When there is a low sex ratio—that is, many more women available than men—marriages will be less common and more fragile, cohabitation will become more general, divorce will be more frequent, and children will be more likely to be raised in one-parent families, with that one parent being the mother.

The social curve traced by the United States moved historically from the former condition to the latter. From 1790 to about 1910, the United States had a relatively high sex ratio—around 104 or 105. After World War I it fell, and by 1940 it was about 100. It continued to drop in the 1950's and 1960's until in 1970 there were 95 men to every 100 women. But, as Guttentag and Secord point out, it was actually much lower than that.

To understand why, it is important to focus not on the total pool of men and women but on a particular slice: namely, unmarried people who are at a marriageable age and of the same race. (Even though the number of interracial unions has grown in recent years, the vast majority of marriages continue to be between persons of the same race.) Men and women tend to marry when they are in their twenties, with a woman usually marrying a man who is two or three years older than she.

If we compare the number of unmarried white men between the ages of twenty-three and twenty-seven with the number of unmarried white women between the ages of twenty and twenty-four, we find that the sex ratio in America in 1970 was not 95 but only 67. Moreover, that gap, or something like it, persisted as the women got older because there was no increase—and almost surely there was a decrease—in the number of unmarried men at the right age for them. So the "availability ratio" shrank still further.

In addition to age and race, education also matters. If women want to marry up, as most seem to do, they must find a man who has attained at least their level of education. For white women who have gone to college, the marriage market deteriorates rapidly after age twenty-five. By the time they reach thirty, there are only half as many unmarried men of the right age and education available for marriage.

Today young women are urged not to marry early but to get an education and start a career. This may or may not be good career guidance, but if the goal is marriage, it is bad advice. As one study shows, in 1980 unmarried female college graduates between the ages of twenty-five and twenty-nine faced five female competitors for every comparable man. Not very good odds—and they get worse depending on where you live. Though San Diego has a lot of men, New York City has a shortage.

MATTERS ARE much worse for African-Americans. They have had a lower sex ratio than whites for over a century; by 1970, there were almost two young black women for every young black man, and the ratio was especially low in big cities. Young black men are scarce because they are in prison or overseas in the armed forces, and because black men die at a higher rate than black women from disease, alcoholism, drug abuse, auto accidents, homicide, and suicide.

Of course, we know that the census does not count blacks accurately, and the undercount is greater for black men than for black women, a fact that could make the ratio look lower than it really is. But the black men who tend to be uncounted are probably not likely to appear especially attractive to black women as spouses—they have no real address, or may be in trouble with the law—and so for all practical purposes the sex ratio may be as low as the census count suggests. One study that made adjustments for an undercount found little change in the proportion of available mates.

The problem of sex ratios among blacks has become the focus of research by many scholars. Daniel Lichter, for example, has found that if African-American women had access to more potential marriage partners, more would get married. This would certainly *help* the marriage problem for African-American women—and it suggests an additional reason for trying to save young black males from premature death, especially by murder—but it would not solve it. Because the legacy of slavery and its immediate aftermath discouraged marriage, black women are still less likely to marry than white ones, even allowing for the low sex ratio.

Similarly, illegitimacy and single-parent families are much more common among blacks than whites, although in the 1990's whites were catching up fast. Using 1970 numbers, Guttentag and Secord found that the correlation between the sex ratios of black Americans and the proportion of black births that were illegitimate was -0.87. Making the same calculation for the white sex ratio and the white illegitimacy rate, they got a result of -0.27. For both racial groups, in short, the sex ratio made a difference, but for blacks the impact was more than three times as great.

A child born out of wedlock might nevertheless be raised in a household with a husband and father



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if its parents married, or at least lived regularly together, after its birth. But Guttentag and Secord found that where black women outnumber black men, children tend to lack fathers. They reached their conclusion using 1970 figures and by comparing overall black sex ratios with the percentage of female-headed black families. I made a similar calculation based on 1990 census data and limiting the analysis to the total sex ratio among people who are unmarried and of marriageable age.*

I used two different measures: the number of illegitimate births per thousand women aged fifteen through twenty-four (call this the "illegitimacy rate") and the proportion of all births to women aged fifteen through twenty-four that were illegitimate (call this the "illegitimacy ratio").† The lower the proportion of men to women in a state, the more likely it was for there to be more out-of-wedlock births by either measure, rate or ratio. This link was strongest for African-Americans. Much the same results have been obtained by other scholars who have looked at the sex ratio in metropolitan areas.

All of these results bring to mind the well-known argument of William Julius Wilson that the central family problem of African-Americans is the shortage of *employed* black men of marriageable age. It is indeed true that the availability of such men fell sharply after 1950 in comparison with the number of women of the same race and age. But joblessness cannot be the whole story. High levels of illegitimate births and single-parent families are associated with a shortage of unmarried black men *whether employed or not*—and, as Christopher Jencks has pointed out, there has been as sharp a decline in marriage among employed black males as among unemployed ones. There is also the counterexample of Latino male immigrants, who also live in central cities, have higher unemployment rates than black men, often do not speak English very well, and may be here illegally—but who are much less likely to sire children out of wedlock or to abandon children whom they have fathered. Once again, something else is going on. To find out what requires a more general discussion of men and women.

WHEN THERE are a lot of men and many fewer women, the women have an advantage, but to what end? When there are a lot of women and many fewer men, the women are at a disadvantage, but what is the nature of that disadvantage?

In the first situation—more men than women—women are in principle free to do whatever they want in order to advance their sexual interests. Having a great deal of bargaining power, they *could* decide to ignore the bonds of marriage and just have sex with as many men as they like. They might even create male brothels run by female pimps and start pornography shops that catered exclusively to women. They could require men to raise their babies while the women played cards, watched (women's) soccer games on television, and went out to bars to drink with other women.

In the second situation, where there are not many men and women have to work hard to find sexual partners, a woman could in theory decide to become a prostitute or, conversely, enter a nunnery or become an unmarried member of a profession. If she wanted to have a child, she might live unmarried with several men who would in effect be trying her out, or settle for having a baby without being married. In short, she could either go along with whatever men wanted or renounce men and motherhood and view marriage as a useless, outmoded invention.

These are the alternatives in theory; reality is quite different. No matter how few women may exist in a society, we do not hear of many of them patronizing pornography shops or requiring men to abandon their careers, be virgins before they are married, or stay home and raise the babies while their wives go out drinking. Similarly, no matter how few men exist in a society, relatively few women renounce marriage altogether, or become more promiscuous than men, or usually prefer cohabitation to marriage.

Guttentag and Secord offer two explanations for these facts, culture and biology, but they develop only the first. Their cultural explanation, which leans heavily on anthropology, is that in every society, men dominate. They have "structural power" that is based on their control over the economy and their overrepresentation in government and the legal system.

What this means for the marriage market is that when there are many men competing for relatively few women, women can indeed become selective—but only up to a point. Most will still choose to be wives and live within the definition of wifeliness that conforms to contemporary male expectations. Even as men take over more child-care duties and

* Russell Burgos gave me invaluable assistance in this exercise.

† The *rate*—the number of illegitimate births per thousand women—can go up just because women are having more babies or go down just because they are having fewer. The *ratio* tells you what fraction of all births are out of wedlock. For a good discussion of these indicators, see Charles Murray, "Does Welfare Bring More Babies?" *Public Interest*, Spring 1994.



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household chores, women will spend more time at home with their children than their husbands, and will still do most of the chores. If they enter the labor force, they will usually earn somewhat less than males of the same age and education because, thanks largely to motherhood, they will have less seniority.

I think Guttentag and Secord are right to argue that culture shapes women's (and men's) choices, and that every culture in the world encourages or requires men to be in the front rank. But cultures can change, and cultures differ. Thus, according to one study, the influence of the sex ratio on women's marriage and fertility rates is much less pronounced in nations where a high number of women are in the paid work force than in less developed countries where women have fewer paid jobs. Economic advancement gives women more choices.

There are other obvious examples of how different cultures have different effects on behavior. Very high sex ratios—lots of men, few women—characterized old California gold-mining towns, Southern colonies in the 17th and 18th centuries, and the communities of Chinese laborers brought to this country to build the railroads. But there were important differences between the first two and the third.

Southern and gold-rush Americans placed decent women on pedestals, defending their honor and attacking any who would detract from it. (Side by side with this, of course, was a rowdy male preoccupation with prostitutes and an attachment to alcohol, violence, and an often sordid way of life.) In Yellowstone City, the law once imposed a death sentence on anyone insulting a respectable woman. Some cowboys were even afraid to talk to decent women for fear of getting into trouble. As late as the 1910's, the historian David Courtwright reports, Wyoming ranch hands would call out "church time!" when a married woman approached, and then lapse into an awkwardly respectful silence. Frontier women often held good jobs at relatively high pay and attended school more regularly than did their Eastern counterparts.

These circumstances may help us understand an otherwise puzzling fact: though the political movement for women's suffrage was based in the East, the eleven states that had, by the end of 1914, granted women the vote were all in the West, with wild, boisterous Wyoming leading the pack. Sophisticated Easterners argued for female suffrage, but primitive Westerners enacted it. The reason, in most cases, was the belief that if women could vote they would help civilize the territory. As the historian Alan Grimes put it, "men conquered the wilderness, women made it habitable."

The Chinese laborers who came to the West in the 19th century also had a high sex ratio—in 1890, there were 27 Chinese men for every Chinese woman—but they managed to put most of the few women who arrived into servitude as prostitutes, while others became the brides of rich men who kept them in a state of nearly complete isolation. Almost none went to school and, other than as prostitutes, few worked.

Just as culture explains why Caucasian women were the objects of deference, culture explains why, at the very same time, Chinese women were treated as property. Caucasian frontier life was open, loose, and only lightly regulated from above, thus enhancing female bargaining power. By contrast, early Chinese social life in this country was dominated by the Triad, the secret societies that celebrated fraternity, encouraged criminality, and helped keep women under centralized control.

Culture, enforced from the outside by lash and gun, also helps explain why African-American marriages were less common during slavery. Usually more men than women were kidnapped and imported, producing a very high sex ratio. But male slaves had no opportunity to define, as frontiersmen did, the difference between respectable and not-so-respectable women. Given the limits imposed by their condition, African-American males took advantage of what opportunities they could and had many sexual liaisons with relatively few marriages.

BUT THESE cultural considerations are not the whole story. Biology sets important limits on how far culture can change things. Nowhere do we find any society, whatever its sex ratio, in which women dominate the government, are the principal consumers of pornography and prostitution, or make men do most of the childrearing. Even in the most egalitarian societies, like Sweden, single-parent homes are headed, in the great majority of cases, by women.

Culture and biology—nature and nurture—interact in powerful ways, especially with respect to those social arrangements that are important and durable. Everywhere men commit more violent crimes than women, are more likely to get into auto accidents and street fights, and are more likely to make violent threats. This is not because they are driven by a "violence gene," but probably because their evolutionary past has led them to compete vigorously for social rewards, including access



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to the most desirable women. And if they obtain those rewards, they will struggle hard to maintain them. Men are physically stronger than women, but what is just as important is that they are more willing to use that strength to get what they value.

Based on studies done in many different cultures, David Buss has shown that while both men and women chiefly value intelligence and kindness in prospective mates, men also greatly value physical attractiveness while women greatly value status and earning power. This was evident in American studies done in 1939 and persists in studies done in the 1980's, long after the sexual revolution had occurred. On average, both men and women want a pleasant mate, but to this preference men add beauty while women add financial capacity.

Much of what we observe about human behavior today follows from these simple requirements. Men want to sire progeny, and so they prefer young and attractive wives. Women want to manage child care, and so they choose husbands who seem to have good economic prospects. Men want to guarantee that the children they support will be theirs, and so they become enraged at the sexual infidelity of their wives. Women want to keep their husbands' necessary child support, and so they worry about a lack of emotional commitment. Men, if they can afford it, are tempted to acquire more wives, and, in societies where polygyny is out of the question, may do so illegally or serially—first a wife who is the children's mother and, then, when the wife ages, either a mistress or a new, younger wife to provide sexual excitement and social status. Women are keenly aware of this possibility, which is probably another reason why they worry more about emotional commitment than about sexual regularity. And though an economically successful woman could abandon her first husband for a new boy toy, that happens much less frequently than a man's abandoning his first wife for a trophy version.

In many primitive societies, male aggressiveness is physical and even brutal, but though modernity has found important alternatives to war and pillage it has only sublimated the motives that produce aggression into a contest for status, wealth, and political power. A great achievement of modern times has been not to weaken male aggressiveness but to convert it from the physical and military realms to the economic and political ones. Samuel Johnson once remarked that every meeting and every conversation is a contest in which the man of superior parts is the victor. That aggressiveness helps explain why men are more likely than women to be focused on occupational achievement and to value it as much as or more than they value family attachments, to work longer hours and to take greater risks.

Culture plays a part here, and culture, as I have already observed, can change. American women now make up a large proportion—sometimes the majority—of people studying to become lawyers, physicians, architects, and veterinarians, and they have entered all kinds of civilian and military occupations. This transformation has helped women, moderated male aggressiveness, and had mixed effects on marriage—reducing the wife's financial dependence on a man while at the same time making it easier for child-rearing to be given to outside parties of uncertain talents.

But biology, though it is not destiny, will—once again—place limits on how far this cultural change can proceed. Most women want children. To give birth to and nurse infants, they will drop out of the seniority rat-race, thereby yielding space to their male rivals. Some will discover that being a mother is more rewarding than being an investment banker. And even if they do not give ground in order to acquire children, male aggressiveness, now channeled into bureaucratic in-fighting and political struggles, will give men an edge—not a decisive advantage, but an edge—in the struggle for success.

But there is a simpler illustration of the role played by biology in the sex ratio's differential impact on men and women. Forget tastes in beauty or differences in physical strength, important as those are. The central fact of family life is that when a father and a mother do not live together, for whatever reason, it is the woman who in the vast majority of cases winds up with the children. The sacrifices women make for their children are much greater than the ones men make, and these commitments explain why, whenever a choice must be made between sex or careerism on the one hand and parenthood on the other, women will choose the latter much more often than will men.

When the sex ratio changes, the way men and women pursue their sexual interests must also change. The magnitude of that change will vary because of culture and under the influence of economic development, but neither culture nor the economy will prevent change from occurring at all. When there is a shortage of young females, most men will devote themselves to finding and marrying a woman because, unless they can offer a serious commitment, any desirable woman will turn to



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a rival who will. Conversely, when there is a shortage of men, many women will settle for less than what they had hoped for by becoming spinsters, accepting casual offers of sex from men who offer no marital prospects, or producing babies without being married to their fathers.

THIS BRINGS us back to where we began: the high number of single-parent, female-headed families in our country. I have argued that this phenomenon is related to, among other things, the low sex ratio that has been our lot in the last decades. There are no signs of a significant change in that condition. But, as is evident from the different effects the ratio has had on black and white Americans, there is more to life than the sex ratio, important as it is. After all, there have been low sex ratios in the past—as recently as the 1940's—that have not produced anything like the high rate of mother-only families that we observe today.

The 60's is the time when many of us suppose that (depending on our point of view) things in general got a whole lot worse or a whole lot better in this country. But there were two major shifts that preceded the 60's by many decades. The first of them, slavery, affected American blacks in particular. Yanked from their homelands, traded on blocks, and subjected to a master's sense of justice that was unconstrained by law, black men and women were told that they could not have a wedding, own property on which to live, or (on small plantations where men were often sent away for jobs in other places) even live together for very long.

The second shift was, in shorthand, the advent of modern individualism. This told free people that marriage, once a sacrament and then an obligation enforced by law and village opinion, was now an arrangement to be agreed to only as it suited the individual preferences of a man and a woman. The effects of this were palpable enough on people who had had a long and universal experience with marriage as the ordinary basis of male-female relations. Under the wide extension of human freedom in which they now lived, many began to think of social convention and public opinion as unnecessary and burdensome restrictions. But the effects were even more immediate and more pronounced in the case of former slaves who became sharecroppers or moved to big cities and found themselves unable to resist the powerful social currents to which these relocations exposed them.

By the second decade of the 20th century, many states had begun to pay money to mothers who were widows or divorcees; by the fourth decade, some began to do so even if the women were not widows or divorcees but the heads of single-parent families. By the seventh decade—the 60's—these payments began to rise dramatically in number. The rest of the story is well known.

The dramatic increase in single-parent families is an immense social change. I have tried to illuminate one aspect of it that has received less public attention than it deserves, but the phenomenon as a whole is far from reducible to any single or simple cause. Nor is it likely to be affected, let alone undone, by any single or simple policy.



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# Socialism's Last Stand

*Joshua Muravchik*

About a year ago, kibbutz Mishmar David in central Israel voted, 50 to 1, to dissolve. Deeply in debt (like most kibbutzim), it decided to sell off some land to settle its obligations and then to give each member title to his own dwelling and a share in the kibbutz's factory. This, noted the *Jerusalem Post*, made Mishmar David "a pioneer among kibbutzim," the first to dismantle itself in order to become "an ordinary Israeli community."

A pioneer it may have been, but most of Israel's roughly 270 kibbutzim are headed down the same path. "The condition of the kibbutz" as we have known it, writes the Israeli author Daniel Gavron in a sympathetic study, is "terminal." In turn, this collapse also tells much about the condition of the two projects of which the kibbutz was the flower: Zionism and socialism.

Once the very symbol of Israel, the kibbutzim, collective settlements devoted chiefly to agriculture, drew thousands of international volunteers willing to work without pay and live in sheds in order to experience the world's one example of true socialism. For here was an enterprise operating faithfully according to the rule "from each according to his ability; to each according to his needs," a precept made famous by Marx himself (though it was first coined by Marx's mentor, Moses Hess, today remembered better for his later Zionism than for his earlier socialism). Moreover, in contrast to other socialist enterprises, the kibbutz stood out, in the words of the great religious philosopher Martin Buber, as "an experiment that did not fail."

The failures Buber had in mind included not only the vast grotesqueries erected by Lenin and his epigones but earlier attempts to organize voluntary socialist colonies on a small scale. A few hundred of such colonies were founded during the course of the 19th century, most of them in the United States. Of these, the most important were sponsored by the followers of the Welshman Robert Owen, who in 1825 gathered nearly a thousand followers at New Harmony, Indiana, a then-flourishing settlement of farms and industries that he purchased on the banks of the Wabash River. Within a scant few months after Owen's group took possession, however, a visitor would write:

> The comfortable gardens, and vines which used to spread and twine about the older habitations, [have] generally gone to ruin. The gardens mostly full of weeds (not full of useful vegetables as formerly) and in many instances the fences broken down and completely open to the streets—a general carelessness seems to prevail; I have seen cows and hogs grazing in some of the gardens and grounds.

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No wonder, then, that history has followed Marx and Engels in dismissing Owen and others of his ilk as "utopian."

The founders of the kibbutz movement were of a very different type. They may have been dreamers, but they were all too aware of being up against a forbidding natural and human environment that demanded the full measure of their energy and practicality. Nor were they misfits escaping from society, the charge by which some explained away the failures of Owen's experiments. On the contrary, they were the spearhead of the Jewish community in Palestine, instrumental to the birth and flourishing of the state of Israel. No fewer than five future prime ministers—David Ben-Gurion, Levi Eshkol, Golda Meir, Shimon Peres, and Ehud Barak—came from kibbutzim.

During the pre-state decades in which Jews struggled to lay physical claim to lands to which title had been purchased, it was these settlements that formed the furthest, most isolated, and perilous outposts. After the establishment of Israel in 1948, the kibbutzim, which comprised a mere 3 percent of the population (or about 130,000 people), provided an estimated 20 percent of Israel's top military officers. They also produced a great part of the nation's agricultural goods and later a disproportionate share of its industrial output.

They did this while practicing socialism of a very pure kind. The members rotated jobs, took their meals in a common dining hall, lived in identical little dwellings, and deposited their offspring in children's homes while they were still in swaddling clothes. The youngsters lived and studied with their peers, save for a few hours' visit with parents each evening.

The goal was to go beyond mathematical equality to "human equality," taking into account discrepancies in biological, familial, and other circumstances. Committees were formed to weigh special requests, and were in turn answerable to a general assembly, usually held weekly, in which every member was eligible to participate. Everything was thoroughly democratic.

THE KIBBUTZ I know best is Ginosar, and it was typical. It was founded in 1937 in the narrow valley from which it takes its name on the northwestern banks of the Sea of Galilee, or Lake Kinneret in Hebrew. This is a venue memorable to Christians for the miracle of the loaves and fishes and other highlights of Jesus' ministry, and to Jews for heroic resistance to Roman rule. The kibbutz lies in the shadow of Mount Arbel, on whose apex, a flat rocky cliff, the Jews built a fortress that for a time confounded Roman military engineers, much like the more famous fortress at Massada on the Dead Sea. Below, on Kinneret itself, the historian Josephus informs us that the desperate Jews took to fishing boats in a hopeless confrontation with Roman warships.

I have known Ginosar since 1960 when my grandmother took me there to visit our distant relative Judith and her family. In 1972 I returned to Israel as the leader of a delegation of young American socialists invited by our Israeli counterparts. By chance, the model kibbutz to which they took us was Ginosar. I have returned to it periodically, including in 2001, when I found it in the throes of wrenching changes about which I interviewed a number of the older members.

Judith and most of the other original settlers had met as teenagers at Tel Aviv's A. D. Gordon School, named after the Zionist prophet (1856-1922) of the "religion of labor." Gordon's philosophy embodied the belief that Jews could reclaim their ancestral home not merely by purchasing land but by mixing their sweat with it, thus also reversing the national deformation that was the consequence of centuries of exclusion from many manly vocations in the Diaspora. Gordon's thinking also reflected the influence of Marxism, strong among the secularized Jews who made up the larger part of the Zionist movement; in this view, it was not the Jews who were the "chosen people" but the proletariat, and Jews stood in unique danger of missing out on membership in this elect group because they numbered too many intellectuals and too few workers.

Upon graduation in the early 1930's, one or two dozen Gordon School adolescents pledged to stick together to redeem their own patch of the Palestinian wilderness for the Jewish nation. Their ranks were augmented by occasional recruits. One of them, Avshalom, who became Judith's husband, had made his way to Palestine at age fourteen after being expelled from his yeshiva in Lithuania because he preferred the soccer field to the synagogue. Through such accretions and the birth of five babies, the group's numbers passed thirty. They encamped in 1934 in the village of Migdal, overlooking the Ginosar valley, to await assignment to a piece of land by the Jewish Agency while eking out a meager living as farm hands.

Impatient with the wait, the recruits cast a covetous eye on the valley below. It had been purchased by Baron Rothschild, who had created his own Zionist corporation to buy land for individual Jewish homesites. When a bloody Arab uprising



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broke out in 1936, threatening to cut the vulnerable road that connected Tiberias at the southern end of the Kinneret with Sefat twenty kilometers north, the Haganah, the Jewish defense force, helped the young Gordon School graduates to move into the valley "temporarily" to protect the route.

In the manner of the period, the colonists erected tents for dwellings, their only permanent structure being a stockade and watchtower. Apart from self-defense, they devoted themselves to clearing the land, which would yield nothing until they carted off a myriad of heavy stones and hacked their way through the dense spiny branches of hundreds of *sheizaf* (jujube) trees to dig up their deep, interwoven roots. Their only immediate source of livelihood was from fishing, but since the return was not nearly enough to support them, a large share of the men took temporary jobs outside the colony.

The Arab uprising ended in 1939, but the youngsters had no intention of leaving, even though their illegitimate status deterred Zionist authorities from giving them any material assistance. It was in a eucalyptus forest at Ginosar that, with the coming of the world war, the Haganah created the Palmach, an elite commando force led by a member of the kibbutz named Yigal Allon that cut its teeth assisting the Allies in the invasion of Syria and Lebanon. In Israel's 1948 war of independence, Allon, by then the commander of a much-expanded Palmach, was regarded by many as the country's most important military leader.

Ginosar lost three men in the 1948 war, but with the achievement of statehood and relative security the kibbutz grew and began to prosper. New manpower arrived in the form of refugees from the Holocaust. The painstakingly cleared soil proved highly fertile, and there was more of it as the kibbutz absorbed land from which Arabs had fled. Moved by Allon's stature as a national hero, Rothschild's corporation relented and ceded to the squatters; Ginosar at last began to appear on maps and became eligible for loans and other benefits from the new state's sympathetic Labor government. Members were able to quit their outside jobs, food in the dining hall became plentiful, tents gave way to cottages. In 1952, running water was installed in the dwellings—though only in bathrooms, for introducing it into a kitchen area would have detracted from the practice of communal dining.

This is not to say that life was luxurious. After a morning in the fields or banana groves, kibbutzniks would pour water over the concrete floors of their cottages before going for their midday dinner. The evaporation provided a kind of makeshift air conditioning as they passed the hottest hours of the day in siesta before emerging for afternoon shifts.

The kibbutz cultivated bananas, cotton, grapes, citrus, olives, palms, mangos, avocados, corn, alfalfa, soybeans, and garden vegetables. It raised chickens, fish, dairy cattle, and honeybees. It cooperated in fishing with kibbutz Ein Gev, located on the eastern banks of the lake at the foot of the Golan Heights from whose redoubts Syrian gunmen shelled the fields. They fished by night, gathering tons of St. Peter's fish and a small fish called *lavnun* or Tiberias sardines that were canned in a plant operated jointly by the two kibbutzim.

In the 1960's and 1970's, the children of Ginosar's original settlers reached maturity. Some received advanced agricultural training, and the innovations they introduced further advanced Ginosar's prosperity. The cottages were improved, as were the houses where the children lived. Each member began to receive a modest cash allocation for clothing, furniture, and travel. Cultural and recreational facilities were added. A Holocaust memorial was erected in the kibbutz cemetery.

This period also saw the kibbutz diversify its economy beyond farming and fishing. The reason was not strictly economic, for Ginosar's agricultural sector was booming; but the kibbutzniks had discovered that a worker's productivity in the valley's harsh heat diminished notably after the age of forty. In view of the strong ethos of productive labor, it was important to find employment for aging members. (Increases in productivity also meant that fewer hands were now required to work the land.) A small plastics factory was opened, later transformed to produce electrical switches and then medical appliances. In the meantime, taking advantage of Ginosar's picturesque location on the shores of the lake, the kibbutz opened *Nof Ginosar*, or Ginosar View, a guesthouse and restaurant. When a wooden boat found by two of Ginosar's fishermen in the mud of the lakeshore turned out to be 2,000 years old, it was made the centerpiece of a little museum. Kibbutz publicists advertised that it might have been used by Jesus himself.

The golden age of Ginosar and the other kibbutzim lasted into the 1980's; but there was turbulence beneath the surface. In 1977, the election of Menachem Begin as Israel's prime minister ended a stretch of political rule by Labor and the Left that had extended back beyond the birth of the state.



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Out went a policy of generosity to the kibbutzim, including subsidies, tax breaks, and government contracts.

The change was psychological as well as financial. Begin's constituency was made up heavily of Sephardi Jews, many of them formerly from Arab countries, who were poorer and much less favorably inclined toward socialism than the European-born Ashkenazis who had dominated Israel in its early years. Most Sephardis shunned the kibbutzim, and for Begin it was good politics to direct barbed comments at these "millionaires with swimming pools," as he called kibbutzniks. The characterization came as a shock to people who were used to regarding themselves as a "serving elite," in the phrase of the political theorist Shlomo Avineri.

Ruder shocks were in store. As the 80's turned into the 90's, inflation in Israel reached 400 or 500 percent. When interest rates failed to keep pace, the inducement to borrow became overwhelming. To apply for a loan at even 100 or 200 percent interest was like receiving free money, a temptation that most kibbutzim, like many individual Israeli citizens and companies, could not resist. When the government finally took drastic measures to halt the inflationary spiral, the kibbutzim were unable to meet their payments: the principal amounted to $30,000 for each kibbutznik, a burden 30 times the size of Mexico's per-capita debt.

In truth, however, it was not the financial crisis that destroyed the movement: the government engineered a series of bailout agreements in 1989, 1996, and 1999, with the banks writing off hundreds of millions of dollars of debt, the government covering some, and the rest being rescheduled. The debt crisis was a symptom of something deeper. Most of the borrowing, instead of being used as capital to boost earnings, had been spent to raise the standard of living. Tellingly, the impulse was not so much hedonism as an effort to stem the loss of members: by some point in the 1970's, the majority of kibbutz-raised children were leaving.

THE HIGH rate of desertion reflected what Yaacov Oved, a kibbutznik and a scholar of communes, calls "the problem of the third generation." Typically, Oved notes, the founders of communes are individuals burning with enthusiasm. Their children "maintain some of their spirit," but the next generation "is always the problematic one." He adduces the American example of Amana, the German Protestant sect that settled in Iowa in the 1800's to live a communal life. Its seven colonies prospered by producing household appliances—Amana is a name that continues to grace American kitchens—but in the 1930's, when the grandchildren came to dominate the community, they rebelled against the system, breaking the church's commercial assets into shares and dividing them among the members.

The idea that a similar process would unfold in the kibbutzim was unthinkable to the founders, who expected just the opposite. They themselves had had to struggle to surmount their bourgeois upbringings; but they believed, as one of them recalled, that "our children who are being raised in the ethos of the kibbutz would be the best kibbutzniks." They were certain, in short, that the kibbutzim would become the site of history's most successful effort to achieve socialism's perennial goal of a new man. It was for this very purpose, after all, that children were being raised from infancy in a brotherly and nurturing environment, and that they lived together in children's homes rather than with their parents.

Yet the results disappointed. Despite the "absolute control" that the kibbutz, in Daniel Gavron's words, exercised over its members, those who grew up in these "optimal conditions" often failed to become imbued with its values, and the very first rampart to fall was communal childrearing. As soon as the exigencies of poverty and communal defense no longer operated to reinforce the decision to lodge kibbutz offspring collectively, a cry was raised for children to sleep in their parents' homes.

In many cases it is unclear how this demand gathered such force. Undoubtedly, young mothers had much to do with it; at Ginosar, I was told, women who had married into the kibbutz took the lead, although I doubt that they alone would have been enough to compel such a big change. Compounding the mystery, most kibbutz-raised adults would speak warmly of their own communal upbringing while indicating that they did not want their children raised in the same fashion. Did their parental instincts overwhelm fond memories? Or was there a darker side to communal rearing that was unacknowledged or unrecalled?

Certainly, not all had been happy in that system. One of my Ginosar cousins recalls from kindergarten age begging her parents to move to the city so the family could live together and she could follow her own interests rather than having to conform to those of her peers. That such feelings were shared is attested by two books published in Israel in 1991. One was a collection of searing reminiscences of the children's houses gathered by Nurit Leshem, a kibbutz-raised psychologist. The other



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was a novel, *Murder on a Kibbutz*, by Israel's popular mystery writer Batya Gur.

Though she writes fiction, Gur is prized for her realistic portraits of Israeli life. In this novel, the central character, a middle-aged leader of a kibbutz and the son of two of its founders, explodes at a community meeting:

> I remember vividly how [my father] used to take me back to the children's house when I ran away to their room at night. . . . I'm not saying there wasn't anything good about the way we grew up, but what about the misery, the nights when we woke up to a nonmother instead of a mother and a nonfather instead of a father? . . . I want to tuck in my children at night myself . . . and when they have a nightmare I want them to come to my bed, not to some intercom, and not to make them go out at night in the dark looking for our room, stumbling over stones, thinking that every shadow is a monster, and in the end standing in front of a closed door or being dragged back to the children's house.

A NUMBER of kibbutzim made the shift to family sleeping in the 1970's. Ginosar did it in the late 1980's. The last holdout, kibbutz Baram on the border with Lebanon, succumbed in the mid-1990's. One of the resisters complained: "The abolition of the old system in all the other kibbutzim . . . is eventually leading to the disintegration of the kibbutz." His fears may have seemed overblown—how could something as tangential to the economic system of the kibbutz as children's living arrangements have such a powerful impact?—but they were not.

As a practical matter, the change required enlarging each residential unit to add more bedrooms. This massive construction project was one reason for the heavy borrowing that wreaked havoc with the kibbutzim's books. But a more subtle factor was also at work. Moving children in with their parents "led to the privatizing of many things," Shlomo Avineri notes. "It was an across-the-board reorganization of public and private space."

One sign of this transformation was a new mode of dining. The eating hall, which had drawn the community together three times a day, had been the backbone of the traditional kibbutz. Now, with increasing frequency, meals were being prepared at home. (Like most other kibbutzim, Ginosar opened its own small supermarket.) Together with the new sleeping arrangements, the new eating habits encouraged an efflorescence of individualism.

Of course, from its earliest days the kibbutz had had to negotiate an endless chain of compromises between the stringent communistic ideals of its founders and the germ of egoism that they could never fully eradicate. At Ginosar as elsewhere, the early kibbutzniks had decided to forswear even their own clothing. Garments were handed in to the central laundry each week, and clean ones of the appropriate size (more or less) were received in exchange. After a couple of years, the women could stand this no longer, and the kibbutz made its first bow to private property.

Typically, a second bow would occur at a kibbutz when the men who had volunteered for the British army in World War II returned with electric teakettles or some other small furnishing. The kibbutz could not force members to relinquish such prizes, but they introduced an intolerable element of inequality. The solution? Buy a kettle for each household—the first small step in the eventual undermining of communal dining. In subsequent cycles, each member was furnished with a refrigerator, then a television.

Even when clothes were individually owned, they were usually purchased in bulk by the kibbutzim—at first. But in time members asserted the wish to select their own, and so was born a system of cash allowances, eventually extended to household furnishings, toiletries, and travel. A further transition came in the 1980's when most kibbutzim voted to combine these separate allocations into "inclusive budgets" that members could use as they wished.

If the shoots of individual identity and self-interest had always managed to force their way through the kibbutz's edifice of selfless collectivism, the financial crisis of the 1980's exacerbated this erosion to the crumbling point by undermining the members' sense of security. The kibbutzim were facing insolvency, and despite the government-arranged bailouts, kibbutzniks well knew that the nation no longer relied on them to settle the land and guard the borders. How long would it continue to underwrite them? The question haunted especially those at the end of their working years. Because they had never imagined reaching such a pass, no pensions had been put aside. It was assumed that the kibbutz would always be there, and that it would provide.

Although the elderly were the most vulnerable, the sense of insecurity was felt by all. It became common for people with private income—pensions



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from outside jobs, gifts from family members off the kibbutz, or reparations to Holocaust survivors from the German government—to deposit it in personal bank accounts rather than contributing it to the collective, as the rules required. Once again, such selfish behavior was not entirely new. Every kibbutz had slackers—it was "paradise for parasites," quipped one Ginosar veteran. Still, although these problems "were there all along" (in the words of one of my cousins, who left Ginosar in his forties), "the pride people took in being kibbutzniks enabled them to tolerate it." With the days of pioneering long past, that feeling is there no longer.

THEIR NEW-FELT insecurity led kibbutzniks to confront some economic realities that had once seemed of secondary importance. By the late 20th century, agriculture alone could no longer ensure a standard of living that most Israelis, including kibbutzniks, had come to desire. "We wanted to make a modest life," Moshe, an old Ginosar fisherman, told me wistfully. "The children today don't even want to hear the word 'modest.'" Diversifying from agriculture to production and service industries, as Ginosar did with its factories and guesthouse, boosted revenues, but much about the economy of the traditional kibbutz was in fact uneconomic.

Socialists used to decry "production for profit, rather than need," but production that is not for profit is usually unprofitable, entailing costs that someone must bear. At Ginosar, as at other kibbutzim, many economic decisions were driven by the desire to give members suitable or satisfying jobs, even if this entailed an implicit subsidy. Job rotation, a totem of the movement's egalitarian ethic, undermined efficiency. And even where it was circumvented to keep talented managers in place, the closely knit social structure militated against sound practice. How do you fire or demote your neighbor?

Today, a couple of Ginosar's ablest administrators, including one of Avshalom and Judith's sons, manage other kibbutzim while continuing to live at Ginosar. Meanwhile, Ginosar has hired a nonmember as its manager. "We bring in outside experts and professionals," one kibbutznik told me pointedly, "because they have relations with no one."

But effective management is only one element in a productive enterprise. It has been said that the kibbutz is a great place for children and the elderly, but not for those of working age. The fact is that those who leave the kibbutzim are often the ones who are most economically productive; by the same token, people who can make a good living on the outside are the ones most likely to chafe under the kibbutz's traditional egalitarianism. This continuing problem has spurred the most far-reaching departures from socialist principle.

At Ginosar, a proposal to pay extra for overtime was initially considered too controversial because it violated the principle of "to each according to his needs." But by 1997 some kibbutzim had adopted an even more radical step: assigning wages according to skill level. The first to do this, Ein Zivan in the Golan, was threatened with expulsion from the kibbutz movement in 1993; today many others have followed its example. In addition, kibbutzniks are free to find jobs outside the kibbutz, as about a fourth of Ginosar's working members do, keeping their wages after paying a tax to the kibbutz, while outsiders fill some jobs on the kibbutz itself. These days, Thai immigrants work in Ginosar's fields, and Arabs clean the hotel guestrooms and serve the meals.

Ginosar has shifted entirely to a cash economy. With their after-tax earnings, members pay not only for food and electricity but for all the goods and services they receive, even education. Only some property maintenance, basic medical coverage, and landscaping of the common areas come "free." And at Ginosar, as at other kibbutzim, discussion is under way about allowing members to take ownership of their dwellings. Like many others, Ginosar is also planning to build housing for sale to the public, hoping to attract suburbanites to whom the kibbutz would also sell various services, like education and dependent care. Finally, in addition to establishing ownership of dwellings, kibbutzim are discussing privatizing their productive assets by distributing shares to members.

Henry Near, author of a standard history of the movement, sums it all up as follows:

> During most of the history of the kibbutz movement, social change was justified (or resisted) on grounds which stemmed from, or were compatible with, a socialist worldview. From about 1980 onward, however, the ideological background changed. . . . The improvisations were still ideologized, but the ideology was no longer that of socialism, but of late-20th-century capitalism.

A former head of the kibbutz movement and an opponent of the new trends named Muki Tsur has described the same development bitterly and mockingly: "Some of the most romantic images of capitalism in the world can be found today on the kibbutzim."



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Some 40 out of Israel's 270 kibbutzim have formed a group called the "collective trend" to resist the abandonment of socialism. But this is little more than a rearguard action, for these 40 differ from the majority only in the pace, not the direction, of change. With the passing of the heroic pioneering phase of Israel's development, the communal way of life has proved unsustainable. As one member who sweated to support Ginosar by mining potash from the Dead Sea told me: "Now I think the system is a mistake because not all people will give their best if they can get things free." Another says simply: "We were abnormal."

Nothing can ever wipe away the extraordinary part played by the kibbutzim in the establishment and flourishing of Israel. But why did such glowing success end in such failure? A hint can be found by going back to Robert Owen. The collectives that he and other 19th-century visionaries launched in America were of two kinds. Some, like New Harmony, were created for the explicit purpose of practicing socialism. They were abysmal failures, collapsing after a median span of two years. Others, by contrast, were religious communes, in which shared property was ancillary to a binding faith; these latter endured, on average, ten times longer.

Most kibbutzim were secular. The small fraction that were religiously based are holding up better than the rest, although Gavron argues that they, too, are following the trend led by Mishmar David. But for the kibbutz movement as a whole, what served as the functional equivalent of a religious faith was the burning commitment to Zionism. Members were joined to their fellows in a project of redemption that made everything else endurable. So powerful a motive was this that they not only helped build a country but also for a time gave the world its only example of socialism lived, or so it seemed, according to the original blueprint.

But the kibbutzim could not survive the success of the Zionist enterprise of "normalizing" the Jewish people. The more normal the Jewish state became, the less willing its citizens were to practice socialism, with its hopeless economic model and its fundamental misreading of human nature. Whether Israel itself can survive normalization, in a world still stubbornly unreconciled to its existence, is another and much more consequential question.



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OBSERVATIONS

# Retrying the Rosenbergs (Again)

*Mark Falcoff*

THE INNOCENCE of Julius and Ethel Rosenberg, executed in 1953 for conspiring to commit espionage for the Soviet Union, has for decades been one of the most treasured myths of the American Left. Although public outrage at their treatment was more intense and widespread in Western Europe than in the United States, a small, devoted conclave of apologists in this country has tried for decades, in the face of an accumulating and increasingly conclusive mass of declassified government documents, to discredit the guilty verdict. So overwhelming has been the accrual of new evidence that some defenders of the Rosenbergs have recently been forced to shift their ground and admit forensic guilt while still insisting on a higher, moral innocence. A case in point is the historian Ellen Schrecker, who has devised the Orwellian term "non-traditional patriotism" to describe the Rosenbergs' betrayal of their country.

A not altogether different line has been taken by the curators of the New-York Historical Society, who have mounted a lurid exhibition to commemorate the 50th anniversary of the execution of the Rosenbergs. Apparently banking on the likelihood that few Americans under the age of sixty will recollect the facts of an exceptionally complicated case, the Historical Society coyly attempts to split the difference between guilt and innocence by focusing not on the charge of espionage but on the death penalty, even helpfully locating and installing an electric chair of the type used on the Rosenbergs at Sing Sing prison. These and other lugubrious touches have apparently provoked "overwhelming public interest," or so the Historical Society informs us in a press release announcing that, though originally scheduled to close in early January, the exhibition will be held over into late March.

This same document provides an overview of the Rosenberg case that anyone familiar with it would find very curious:

> Julius Rosenberg was one of a number of students studying engineering at City College, who as a member of the Depression generation became very disillusioned with capitalism. They imbibed the values of the Communist Left that were prevalent in New York City politics at the time and eventually were recruited by the Soviet Union to fight fascism and help the cause of beleaguered workers. . . .
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> The Rosenbergs' death sentence has continued to generate controversy over the last 50 years. Many observers think the capital verdict reflected both the fears engendered by the anti-Communist Red Scare and a government strategy to pressure the defendants to reveal a larger spy network. . . .
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> [The exhibit prompts] visitors to consider how this internationally publicized cold-war case and resulting double execution acted as a warning to those who publicly criticized government policy.
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> When defendants face capital punishment, every detail of evidence counts. Yet in this trial, as in many of today's controversial death sentences, the evidence was fragmentary and inconclu-

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sive. In a conspiracy trial, national-security concerns and the nature of the crime itself tend to make hard evidence difficult to come by. The release of hundreds of thousands of pages of U.S. government classified documents in recent years has by no means resolved all these issues.

Except for pointing to "a government strategy to pressure the defendants to reveal a larger spy network," all of the assertions in this document are either partially or wholly false. Whatever the tasks to which Soviet espionage operatives were assigned in New York in the 1930's, "fight[ing] fascism and help[ing] the cause of beleaguered workers" were not among them. Nor—it should be unnecessary to remind a society of historians—were the Rosenbergs executed for criticizing government policy. It is also not true that the "hundreds of thousands of pages" of newly declassified documents have failed to resolve issues in the case; quite the opposite, in fact.

But these are the sorts of equivocations and obfuscations that seem to have become increasingly necessary in light of historiographical developments over the past quarter-century. The major landmarks include a 1979 article in the *New Republic* by Ronald Radosh and Sol Stern and Radosh's subsequent book (with Joyce Milton), *The Rosenberg File* (1983), which made use of materials obtained under the Freedom of Information Act to establish the couple's guilt. These were followed by the 1990 publication in English of the memoirs of the late Soviet premier Nikita Khrushchev, who explicitly credited the Rosenbergs with having "provided very significant help in accelerating the production of our atomic bomb." Then, in the 1990's, the National Security Agency (NSA) released declassified versions of the once highly secret decrypts of intercepted Soviet cable traffic, codenamed Venona, which both confirmed and filled in quite a few key details about the Rosenbergs' espionage operation. Still another contribution has arrived lately in the form of a biography of a key player in the spy ring, Ethel Rosenberg's brother, David Greenglass.* Finally, Alexander Feklisov, the man who served as Julius Rosenberg's Soviet controller, has broken a half-century of silence to publish his own memoirs; after first appearing in France, these have now been issued in the United States.†

FEKLISOV OFFERS a fascinating excursion into the netherworld of Soviet espionage in New York in the early 1940's. Apparently a deft and disciplined agent, he was so successful in the U.S. that in 1946 he was transferred to London to supervise the activities of another highly productive spy, the nuclear physicist Klaus Fuchs. Feklisov's testimony is particularly significant because he is able to confirm the accuracy of the Venona decrypts, whose validity is still contested by the Rosenbergs' sons, Michael and Robert Meeropol.

Feklisov is also able to confirm the couple's considerable success in recruiting other agents: "the Rosenberg network," he writes, "was one of the best-producing groups of agents in the history of Soviet technological espionage." Its leading personalities were Alfred Sarant and Joel Barr, both of whom eventually fled the United States in the run-up to the Rosenbergs' arrest and spent the rest of their lives in the Soviet Union developing advanced military technology. Another was Morton Sobell, an electrical engineer who eventually ended up as a co-defendant at the Rosenberg trial. Still another was David Greenglass.

Rosenberg apologists have always claimed that the FBI "framed" the couple. Feklisov's account makes short shrift of any such idea. Indeed, he expresses considerable irritation with Soviet (and now Russian) intelligence for failing to express adequate appreciation for the immense services rendered by Julius Rosenberg to the cause of the motherland. He even takes his former superiors to task for failing to do all they could to spare his agent, either by instructing him to confess or by publicly claiming him and offering a swap for an American agent apprehended by Soviet security authorities.

Feklisov recounts that he met Julius Rosenberg over 50 times in order to acquire documents and artifacts that had been obtained by Joel Barr, Alfred Sarant, and William Perl, another member of the ring, all of whom were employed in sensitive military industries. These included technical drawings, manuals, and electronic devices somehow smuggled out of heavily-guarded defense plants. In total, writes Feklisov, Barr, Sarant, and Perl passed on to Rosenberg—and Rosenberg to Feklisov—some 9,000 pages of secret documents relating to 100 different programs in the planning stage, half of which were deemed "very valuable" by the KGB. Rosenberg even brought him an actual fuse-proximity detonator, the same device that would eventually be used in 1960 to shoot down Francis Gary Power's U-2 spy plane.

Other information conveyed through this channel included data for the SCR 584, an instrument that determined the speed and trajectory of V-2 rockets and calibrated the firing of anti-aircraft batteries, and a complete design manual for the first U.S. jet fighter, the P-80 Shooting Star. Feklisov also admits to an involvement in atomic espionage, though he claims that the documents he received in this area (presumably from Greenglass through Rosenberg) contained information that Moscow had already

* *The Brother: The Untold Story of Atomic Spy David Greenglass and How He Sent His Sister, Ethel Rosenberg, to the Electric Chair* by Sam Roberts. Random House, 543 pp., $35.00.

† *The Man Behind the Rosenbergs*, coauthored with Sergei Kostin. Enigma Books, 432 pp., $35.00.



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obtained from other quarters—a point to which we shall return.

ANOTHER SIDE of the story comes from the successful quest by Sam Roberts, a *New York Times* reporter, to track down David Greenglass, now very old and living in retirement under an assumed name. Greenglass was a machinist assigned to the Manhattan Project who turned states' evidence and was—in the words of the deputy prosecutor Roy Cohn—the case's "smoking gun." He had some scientific and technical interests but never went beyond high school. Apparently he idolized his brother-in-law Julius Rosenberg, who was a graduate engineer, and absorbed most of the latter's "progressive" political ideas. Drafted into the U.S. Army in 1943, Greenglass was assigned by a trick of fate to the war's most important technical undertaking: the construction of the atomic bomb in Los Alamos, New Mexico.* He managed to slip through the government's fairly rigorous security background check by the simple expedient of lying about his past associations.

In Los Alamos, Greenglass was part of the team assigned to fabricate precision molds for the high-explosive lenses used to detonate the nuclear core. Eventually his drawings, passed on to the courier Harry Gold and from him through Julius Rosenberg to Soviet agents, were to play a major role in the case for the prosecution. On leave in New York City in 1945, Greenglass also met with a Soviet operative by the name of Yakovlev in a public location, identifying himself by saying, "I come from Julius." He then handed Yakovlev a list of people in Los Alamos he considered "suitable for drawing into our work." At the same time, he was told to gather samples of materials used in making the bomb. While in New York, Greenglass also delivered a cartridge for a new kind of wire detonator that had just been invented by his machine shop in Los Alamos.

When the war ended, Greenglass entered into an unsuccessful and eventually acrimonious business association with Julius Rosenberg. This may have played a role in his eventual decision to turn against his brother-in-law and his own sister, helping to send them both to the death chamber.

THE SEEMINGLY quiet world of Julius and Ethel Rosenberg and David and Ruth Greenglass was shattered by two events separated by five years. The first was the September 1945 defection of Igor Gouzenko, a military-intelligence code clerk at the Soviet embassy in Ottawa, Canada. At about the same time, Elizabeth Bentley, an American woman who had been acting, like Harry Gold, as a courier for Soviet intelligence, turned herself into the FBI. Both revealed that the Soviets had penetrated the Manhattan Project. The second event was the January 1950 arrest in London of Klaus Fuchs, who provided Scotland Yard with a complete record of his activities in passing along crucial atomic secrets to the Soviet Union. A few days later, FBI agents came to visit the Greenglass home in New York.

The FBI was ostensibly inquiring about the theft of uranium from Los Alamos, but both Greenglass and Julius Rosenberg suspected, correctly, that the net created by Klaus Fuchs's confession was closing in on them. Meanwhile, Soviet intelligence was making plans to evacuate both the Rosenbergs and the Greenglasses through Mexico and Sweden, an option of which, in the event, neither couple chose to avail itself. Instead, David Greenglass chose to confess.

Not long afterward, Julius Rosenberg was interviewed by the same FBI officials. He denied everything—indignantly. He claimed not to know anything about the atomic bomb until it was dropped. He lacked, he said, the necessary technical knowledge even to ask intelligent questions about his brother-in-law's secret work. And, he insisted, he did not even know any Russians.

A few months later, in July 1950, Rosenberg was arrested. His earlier refusal to cooperate had led the FBI to consider other means of getting him to volunteer what he knew, one of which was to implicate his wife. The government's sense of urgency was driven by something unknown even to President Truman: much of the incriminating information in the government's possession could not be revealed in court without compromising the fact that the National Security Agency had broken the USSR's secret codes. Ironically—as it later became clear—the FBI and the NSA could have saved themselves the trouble; Stalin knew about the breaking of the codes anyway.

The Rosenbergs and Morton Sobell, one of their confederates, were brought to trial in 1951. Both husband and wife were found guilty of espionage and eventually sentenced to death. After a series of appeals, the sentence was carried out in 1953. David Greenglass was tried as well, and found guilty of espionage, but his willingness to cooperate with the government led to a reduced sentence of fifteen years; he was released on parole after serving ten of them.

What led to the worldwide outcry was the decision of the U.S. government to put the Rosenbergs to death. The protest was orchestrated by the Soviet Union and its allies and fellow travelers, but was not limited to them. Even Pope Pius XII, himself no shrinking violet when it came to fighting Communism, appealed for clemency. In denying any such request, President Dwight D. Eisenhower uttered a lapidary sentence summarizing the view of the U.S. government and, to a very large measure, of the

* Originally scheduled for another assignment, Greenglass was deemed unqualified at the last minute when a medical examination revealed colorblindness.



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American public: "By immeasurably increasing the chances of atomic war, the Rosenbergs may have condemned to death tens of millions of innocent people all over the world."

Ethel Rosenberg's own response was quite different: "the great democratic United States," she said, "is proposing the savage destruction of a small, unoffending Jewish family." When, on the eve of the execution, the United States marshal told her that her final appeal had been denied and the death sentence would be carried out in a matter of hours, she added: "the Rosenbergs will be the first victims of American fascism."

ALTHOUGH RICH in colorful detail, Roberts's book largely follows (and to some extent simply repeats) the findings of Radosh and Milton's *The Rosenberg File* without always crediting the source. He singles out two issues for extended comment, both of them central to the government's case and both contested by the defense. Could David Greenglass, a machinist with a *Popular Mechanics* level of technical preparation, have absorbed details crucial to the making of so complex a device as the atomic bomb? And, assuming that he did assimilate the necessary data, how valuable were his drawings and other information to the Soviets?

Somewhat surprisingly, a fair number of eminent physicists consulted by the Rosenbergs' defense team declined to rule out the possibility that Greenglass could have acquired the necessary proficiency; they included E.U. Condon, a former Los Alamos physicist, Hans Bethe of Cornell, and Norbert Weiner of MIT. As Weiner put it, "I would hesitate to make any close association between a person's formal education and his ability to perform." As things turned out, this was a particularly prescient observation, since, as Roberts explains in the final pages of his book, after being released from prison Greenglass enjoyed a rather spectacular (if financially unremunerative) career as an inventor and scientific innovator.

The value of Greenglass's information to the Soviet construction of the bomb was easier to dispute, partly because the Rosenberg ring was only one source of information; presumably Klaus Fuchs in Great Britain was at least as important. But, as Roberts sagely observes, establishing who did what for whom may not have been anyone's first imperative. At the time, American intelligence officials had a vested interest in minimizing the costs of their relatively lax security procedures at Los Alamos. A few years later, having detonated their own device, the Soviets would not have been eager to suggest that their scientists had been incapable of building a bomb on their own—even though the model they finally did produce resembled the U.S. prototype down to the nuts and bolts.

Roberts resolves the controversy thus: "Whatever else Julius Rosenberg delivered to the Russians, they would have built the atomic bomb without him." Perhaps they would have—but not necessarily *when* they did, or with the same consequences. Although Roberts dismisses the impact on the cold war of the early Soviet acquisition of the bomb, we now know beyond dispute that this is precisely what gave Stalin the confidence to challenge the United States in Korea, resulting in a war that cost the lives of millions of civilians and tens of thousands of American soldiers. Still, Roberts does at least squarely acknowledge that Julius Rosenberg was guilty of "conspiracy to commit espionage," and that while he did not—because he could not—"steal the secret of the atomic bomb," this was not for lack of trying. The point, Roberts rightly adds, is that Julius's innocence or guilt did not hinge on whether "the conspiracy accomplished its goal."

ANOTHER GREAT question that remains from this case is the degree of Ethel Rosenberg's guilt and whether, even if she had been fully complicit in atomic espionage, it was right for the United States to sentence her to death. Admittedly, the punishment was unusually harsh and even unprecedented. Never before had a civilian court imposed the death penalty for espionage, and only twice had the federal courts handed down capital sentences for treason.

Over the years, even those who have supported the government's case—including Radosh and Milton—have argued that Ethel Rosenberg's role was not significant enough to justify the punishment she received. Roberts agrees: in his account, Ethel Rosenberg was the victim of her brother David's excessive eagerness to cooperate with the prosecution, an eagerness that led him to say she had typed certain secret documents. Presumably by delivering up both his brother-in-law and his own sister, he hoped to minimize his own sentence and save his wife Ruth from indictment—and so he did.

How much credit should the government have given to Greenglass's accusation against his sister? Feklisov, who denies ever having met her, puts it this way: "It is certain that Ethel shared the convictions of Julius and recognized, no doubt, his collaboration with Soviet spies. However, she had never participated in these clandestine activities." Roberts states the matter more starkly: she was "irrefutably personally supportive, philosophically in sync, and morally complicit. She may, in fact, have committed some or even all of the few overt criminal acts attributed to her by the prosecution." Even so, this did not necessarily justify assigning her the same fate as her husband.

BUT HERE we arrive at the supreme irony of the entire case, which is that the U.S. government did not want to execute *either* of the Rosenbergs. What it wanted, instead, were the facts about their espionage ac-



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tivities. Had Julius and Ethel been willing to talk, Eisenhower was fully prepared to commute their sentence to life imprisonment. Even that would never have been served to term, for under federal law, as the President himself pointed out, "if they do not go to the chair, they will be released in fifteen years."

This option was available to the couple virtually to the very moment the executioner threw the switch. Roberts reminds us that, from a command post in Sing Sing, the FBI maintained open phone lines to director J. Edgar Hoover's office in Washington. Agents were also armed with an elaborate legal protocol that would have justified the Bureau's recommendation of a last-minute reprieve. Specific questions had been drafted, two stenographers were standing by, and several suspected members of the Rosenberg spy ring had been placed under surveillance to prevent them from fleeing the country if word leaked out that the Rosenbergs were cooperating. Yet even when, moments after her husband's execution, the prison's Jewish chaplain begged Ethel to save herself, her only comment was, "I have no names to give. I'm innocent."

In effect, the Rosenbergs played a game of chicken with the U.S. government, one that both sides lost. The government was never able to pin down all the facts about Soviet atomic and scientific espionage, and several key members of the Rosenberg ring were able to escape to safe haven behind the Iron Curtain. Moreover, the execution of the Rosenbergs provided the Communist camp with a massive propaganda windfall; Roberts exaggerates only slightly in writing that "by martyring themselves, they contributed considerably more to the cause of world Communism than they ever had as spies."

As for the price paid by the Rosenbergs, they willingly chose not only to die themselves but to commit their two boys, ages six and ten at the time, to orphanhood. Indeed, contemplating what the Rosenbergs did or hoped or tried to do in the years before their apprehension, one cannot help wondering about the disposition of parents who would engage in dangerous and highly illegal work that inevitably exposed their children to the prospect of their own physical disappearance, not to mention the stigma that would be attached thereafter to their name and family.

But as Rebecca West wrote in *The New Meaning of Treason* (1964), "a traitor may or may not be a Communist; he may or may not be working for gain, and there is a third uncertainty. He may or may not be able to bring his treachery to an end." The Rosenbergs were certainly Communists; the gain they were working for was not of the monetary kind, but much more powerful than that; and until the last moment they could not and would not bring their treachery to an end. In the service of despotism, they betrayed both their children and their country. This remains the most central and relevant fact in the case, notwithstanding yesterday's or today's attempts to blur or disfigure the historical record.



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MUSIC

# The Great American Songbook: Part 2

*Terry Teachout*

"STRANGE HOW potent cheap music is," Noel Coward wrote in *Private Lives*. That droll tribute to the power of popular song has been quoted countless times—but Coward, himself a fine songwriter, overlooked the fact that there was and is nothing "cheap" about the immaculate craftsmanship of the composers, lyricists, and performers who were responsible for the creation and dissemination of what has come to be known as the Great American Songbook. Their collective achievement, which survived the rise of rock-and-roll and continues to flourish, now seems likely to be of permanent significance.

American popular song is inextricably tied up with American popular singing. In order to illuminate the interplay between the two, I have compiled an annotated list of 50 American pop singers of the 20th century, each one performing a different song, all 50 of which are currently available on CD. The first installment of the list, which is arranged alphabetically by singer, appeared last month; this is the second.

Though the list is unabashedly personal, I hope it is wide-ranging enough to suggest something of the stylistic breadth of the pre-rock standard. I also hope it will suggest the ongoing vitality of the pop-song tradition, for along with such legendary figures of the increasingly distant past as Fred Astaire and Bing Crosby, I have made a special point of including a number of younger performers and songwriters whose work is at once recognizably traditional and unmistakably contemporary.

7. **Andy Bey**: "Someone to Watch Over Me." Music by George Gershwin, lyrics by Ira Gershwin.

Performers interpret the songs they sing, and sometimes the interpretation becomes part of the song. A case in point is the Gershwin brothers' "Someone to Watch Over Me," a medium-tempo tune with a ragtime-y feel that is now almost invariably performed as a ballad—a change that helps to clarify the pentatonic shape of the first phrase of the chorus ("There's a somebody I'm longing to see"), as well as allowing Ira Gershwin's typically ingenious rhymes to create their full effect. As a ballad, "Someone to Watch Over Me" long ago became one of the most beloved of Gershwin tunes.

Andy Bey, a jazz vocalist and pianist who all but vanished from sight for the better part of a quarter-century, has now reemerged as a "singer's singer," admired by colleagues and critics alike. In his youth, he was a somewhat cloying baritone in the Billy Eckstine tradition, but he later made himself over into a challenging improviser (as well as a pianist of considerable harmonic resourcefulness). His plaintive, gracefully self-accompanied solo performance of "Someone to Watch Over Me" is memorable for its rhythmically free treatment of the verse, one of the Gershwins' very best (*Ballads, Blues, and Bey*, Evidence ECD 22162-2).

8. **June Christy**: "Lazy Afternoon." Music by Jerome Moross, lyrics by John Latouche.

Jerome Moross was one of a small number of American classical composers who also worked in the

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field of popular music (in addition, he scored several Hollywood films, most notably William Wyler's *The Big Country*). His best-known song, "Lazy Afternoon," was written for *The Golden Apple* (1954), a folk opera based on Homer that was successfully produced on Broadway. The languorous, seductive tune, whose perfectly apposite lyric is by the gifted but undisciplined writer John Latouche, promptly established itself as a standard and continues to be heard regularly.

The big bands of the 1930's and 1940's served as finishing schools for a large number of pop singers who benefited from their strict musical discipline and often went on to have major solo careers in their own right. June Christy, who sang with Stan Kenton, later made numerous solo albums, arranged by the ex-Kenton staff composer Pete Rugolo, that served as showcases for her seductively cloudy mezzo-soprano. Rugolo's transparently voiced, modern-sounding arrangement of "Lazy Afternoon" frames Christy's restrained yet expressive singing to fine effect (*Gone for the Day/Fair and Warmer*, Capitol 4 95448 2).

9. **Rosemary Clooney**: "Do You Miss New York?" Music and lyrics by Dave Frishberg.

Dave Frishberg, who first won recognition in the 1960's as a mainstream jazz pianist, is now better known as a songwriter. Though he started out as a composer of comic songs, he gradually mastered the techniques of the great professionals, plumbing deeper feelings without abandoning the self-deprecating wit that first brought his work to the attention of adventurous singers looking for new material. (In addition to playing piano, Frishberg also sings his own songs in an engagingly creaky voice.) "Do You Miss New York?" is an old-fashioned "list song" whose lyric—a sweet-and-sour catalogue of the salient aspects of life in Manhattan, good and bad alike—takes on unexpected emotional depth from Frishberg's angular, harmonically tart setting.

Many pop singers retire far too late, but Rosemary Clooney is an admirable example of a singer who peaked in the final years of her long career. In the 1950's, she became commercially successful by recording silly ditties chosen for her by the producer Mitch Miller; after a nervous breakdown brought her career to a halt, she metamorphosed into a tougher, jazzier artist who did only the best material. Her 1993 recording of "Do You Miss New York?," a surprising choice for a vocalist of Clooney's generation and background, is an outstanding example of her late style (*Do You Miss New York?*, Concord Jazz CCD-4537).

10. **Nat King Cole**: "Stardust." Music by Hoagy Carmichael, lyrics by Mitchell Parish.

Most of the great American songwriters active between the world wars were influenced by jazz, but few played it professionally. The most prominent exception, Hoagy Carmichael, worked as a jazz pianist in the 1920's, recording with the cornetist Bix Beiderbecke. The latter's characteristic melodic devices can be heard in the verse of "Stardust," perhaps the most frequently heard of all pre-rock popular songs. (The "verse" is the part of a song following the instrumental introduction and preceding the chorus.) Carmichael was also one of the few songwriters who rarely wrote conventional love ballads. Although "Stardust" is without doubt a love song, Mitchell Parish's lyric is a song *about* a song—an unusual framing device that adds to its distinctiveness.

Nat King Cole, one of the most influential jazz pianists of the 1940's, eventually became a full-time singer, finding even greater popular success in that role. The grainy, dark-hued baritone voice of his middle age, its distinctive coloration deriving in no small part from the cigarette habit that would kill him in 1965, was well suited to romantic balladry, and his tender version of "Stardust," complete with the Beiderbecke-like verse, is rightly regarded as definitive. The cascading, vibrato-laden accompaniment for strings and harp is by Gordon Jenkins, himself an accomplished songwriter (he composed "Goodbye," Benny Goodman's theme song). *Love Is the Thing*, the 1958 album from which "Stardust" is drawn, is currently out of print, but Cole's version of "Stardust" can be heard on an imported collection of his hit records that is available from www.amazon.co.uk, the English affiliate of amazon.com (*Nat King Cole: The Ultimate Collection* EMI 499-575-2).

11. **Perry Como**: "They Say It's Wonderful." Music and lyrics by Irving Berlin.

Though Irving Berlin could write elaborately ingenious songs, his trademark was a melodic directness that at its best can be reminiscent of Schubert. The sustained line of "They Say It's Wonderful," the hit ballad from *Annie Get Your Gun* (1946), is a prime example of this side of Berlin, as is the unmannered lyric. It hardly seems possible that so complete a fusion of words and music could have come from the pen of an untrained, uneducated songwriter—which may help to explain why Berlin was dogged throughout his long life by rumors that he hired other people to write his songs. The real explanation was simpler: genius.

Perry Como is now remembered as the unflappable, somnolent TV personality of the 1950's who specialized in saccharine ballads and mindless novelty songs. This mostly deserved reputation obscures the fact that he was also a superior vocalist with a wonderfully well-placed baritone voice. Whenever he sang good songs, these qualities invariably came to the fore, as in his 1946 recording of "They Say It's Wonderful," whose Italianate legato



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and warmth are a welcome reminder that there was more to Como than his Christmas specials (*A Portrait of Perry Como*, Gallerie GALE 448).

12. **Mary Foster Conklin**: "Mad About You." Music and lyrics by David Cantor.

The current revival of interest in the Great American Songbook has been accompanied by the emergence of several young songwriters who are infusing traditional forms with contemporary content. They include David Cantor, the guitarist for Dave's True Story, a "lounge" group based in New York City. Though many of Cantor's songs are ironic tales of downtown Manhattan, he also writes more conventional-sounding, standard-style ballads whose lyrics nonetheless have a postmodern feel. "Mad About You," for example, is a laconic, disillusioned song about the aftermath of a failed romance, told from the point of view of the angry partner: "For what I once thought so sublime/Was just a perfect waste of time/Suffice to say/That I'm no longer mad about you."

Mary Foster Conklin, also based in New York, is a singer with a salty, low-pitched voice who blends jazz-based improvisation and the theatrical techniques of cabaret. Unlike many other younger vocalists, she rarely sings about what she calls "old-movie romance," and she takes a special interest in the work of similarly inclined songwriters. Her recording of "Mad About You," lucidly accompanied by a trio led by the pianist Bill Mays, emphasizes the ruefulness of Cantor's lyric. It can be heard on her first album, *Crazy Eyes*, which is available from www.cdbaby.com, an online store that specializes in releases by independent record labels (*Crazy Eyes*, Mock Turtle Music MT00219).

13. **Bing Crosby**: "Make Believe." Music by Jerome Kern, lyrics by Oscar Hammerstein II.

Modern American musical comedy begins with Jerome Kern, a classically trained composer who moved away from European-style operetta to help develop a distinctively American form of songwriting. His masterpiece is *Show Boat* (1927), a musical of near-operatic scope which a generation of Broadway songwriters and librettists took as their model. The no less influential book and lyrics are by Oscar Hammerstein II, who later replaced Lorenz Hart as Richard Rodgers's lyricist. *Show Boat* is studded with standards, among them the light-hearted "Make Believe"; though not performed nearly as often as "Ol' Man River" or "Can't Help Lovin' Dat Man," it remains one of the most attractive American songs of the 1920's.

Bing Crosby is the key figure in American popular singing between the wars, a big-voiced balladeer who enlivened his style with the casual zest of jazz. A vocal crisis in the early 1930's gradually lowered his medium-high baritone to a near-bass, in the process making him more popular than ever, but most connoisseurs prefer his earlier recordings. Among the best of them is his airy version of "Make Believe," deftly accompanied by the Paul Whiteman Orchestra. It is included on an imported anthology available from www.worldsrecords.com (*Bing Crosby 1926-1932*, Timeless CBC-1-004).

14. **Meredith d'Ambrosio**: "Dream Dancing." Music and lyrics by Cole Porter.

Cole Porter, a wealthy dilettante who turned himself into a great popular songwriter, is best known today for the arch wordplay of such comic turns as "You're the Top." Of far more interest, though, are the love songs in which his sometimes too-clever lyrics are ennobled by expansive melodies that leave no doubt of his thwarted romanticism. "Dream Dancing," one of Porter's finest ballads, never quite achieved full-fledged standard status, but it has been taken up by a number of jazz musicians, and is now performed far more often than during his lifetime.

Like Andy Bey, Meredith d'Ambrosio is unknown to the general public but greatly admired by other singers and musicians, and her dozen-odd albums are closely packed with carefully chosen songs of the highest quality. D'Ambrosio's lightly swinging medium-tempo version of "Dream Dancing" is a good introduction to her whisper-soft contralto voice and unassuming, rhythmically adept style (*South to a Warmer Place*, Sunnyside SSC 1039D).

15. **Blossom Dearie**: "If I Were a Bell." Music and lyrics by Frank Loesser.

One of the last of the old-fashioned professional songwriters—and one of the few to be equally adept at words and music—Frank Loesser is known less for specific songs than for the scores he wrote for two of the biggest Broadway hits of the postwar era, *Guys and Dolls* (1950) and *How to Succeed in Business Without Really Trying* (1961). A theater man par excellence, he had a special knack for plot-driven production numbers, which is why relatively few of his show tunes are now heard outside the contexts of their shows. One that remains deservedly popular is "If I Were a Bell" (from *Guys and Dolls*), whose well-named lyric rides atop a tune rhythmically interesting enough to have caught the ear of the trumpeter Miles Davis. His 1956 recording made it a jazz standard.

If any vocalist owns "If I Were a Bell," it is Blossom Dearie, the jazziest of all cabaret singers, who performs a wide and idiosyncratic repertoire of songs ranging from the familiar to the *recherché* (many of the best of which she has written herself). Her high-pitched, wise-child voice and delicately swinging piano playing light up her 1958 recording of "If I Were a Bell," accompanied by Ray Brown and Ed



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Thigpen, the rhythm section of the Oscar Peterson Trio. Even better is the slower, slyer solo performance heard on *Winchester in Apple Blossom Time*, an album on the Daffodil label that is currently out of print but very much worth searching out (*Once Upon a Summertime*, Verve 314 517 223).

16. **Dena DeRose**: "More Than You Know." Music by Vincent Youmans, lyrics by Edward Eliscu and Billy Rose.

The popularity of Vincent Youmans's "More Than You Know" is a testament to the sheer durability of American popular song. Written in 1929 for the unsuccessful Broadway show *Great Day*, it remains indispensable to saloon singers the world over. (Michelle Pfeiffer, playing the part of a second-rate pop singer, performs it at an audition in the movie *The Fabulous Baker Boys*.) Nor is its popularity a mere function of its familiarity: Youmans's wailing melody, with its repeated chromatic ascent to the sixth degree of the scale, is the exact musical equivalent of Edward Eliscu's sorrowful lyric.

Old standards like "More Than You Know" are made to be reinvented, and Dena DeRose's recent recording, sung over a Latin beat borrowed from the pianist Ahmad Jamal's famous arrangement of "Poinciana," adds fetching freshness to an over-familiar song. Herself a highly accomplished pianist, DeRose started singing out of necessity when carpal tunnel syndrome left her temporarily unable to play; her cool-toned, introspective voice and consistently creative self-accompanying make her one of the most impressive of the younger jazz singers currently appearing in New York City (*Another World*, Sharp Nine CD 1016-2).

17. **Jim Ferguson**: "The Night We Called It a Day." Music by Matt Dennis, lyrics by Tom Adair.

Matt Dennis and Tom Adair served in the early 1940's as staff songwriters for the legendary big band led by the trombonist Tommy Dorsey, for which they wrote such immediately successful standards as "Everything Happens to Me," "Violets for Your Furs," and their best ballad, "The Night We Called It a Day." Though Adair's lyric is memorable in its own right, it is Dennis's arresting, achingly idealistic melody, with its unexpected initial two-stage leap of a minor ninth, that makes this song a classic.

Many famous singers, including Frank Sinatra, have recorded "The Night We Called It a Day," but the best version on record is the most recent one, performed by the singer-bassist Jim Ferguson. A light, low-lying tenor with a slight but unmistakable Southern accent and a flawless command of the falsetto-like "head voice," Ferguson doubles as a Nashville-based country musician but his heart is in jazz and standard song; perhaps the finest male balladeer of his generation, he sings with unaffected, irresistible sincerity (*Deep Summer Music*, A-Records/Challenge AL 73201).

18. **Ella Fitzgerald**: "What Is There to Say?" Music by Vernon Duke, lyrics by E.Y. "Yip" Harburg.

The concert music of the Russian composer Vladimir Dukelsky—including a piano concerto written for Arthur Rubinstein and a ballet score commissioned by Serge Diaghilev—is now forgotten. But once Dukelsky moved to the United States and changed his name to Vernon Duke, he easily established himself as a popular songwriter, collaborating with prominent lyricists on such ballads as "April in Paris," "Autumn in New York," and the evergreen "What Is There to Say?" "Yip" Harburg's lyric, which famously rhymes "deadlock" and "wedlock," is undeniably clever, but it is Duke's long-breathed melody that makes the song a standard—and one with a faint but unmistakable Russian flavor.

Though Ella Fitzgerald was never a particularly striking interpreter of lyrics, her bright, youthful-sounding voice and infallible sense of swing caused her to be ranked with Billie Holiday as the most widely admired of jazz vocalists. Even those who find her singing insufficiently characterized will be impressed by the duet recordings she made in 1950 and 1954 with the pianist Ellis Larkins, a peerless accompanist who brought out the best in Fitzgerald, and especially so in their slow, affectionate version of "What Is There to Say?" (*Pure Ella*, GRP GRD-636).

19. **Helen Forrest**: "Day In—Day Out." Music by Rube Bloom, lyrics by Johnny Mercer.

Johnny Mercer collaborated with more first-rate composers than any other lyricist in the history of American popular song, almost always to brilliant effect. At home in every genre of songwriting from comedy numbers ("Bob White") to French *chansons* ("When the World Was Young"), Mercer commingled the colloquial diction of his Southern boyhood with a genuinely poetic sensibility. Among the earliest of his many hits is "Day In-Day Out," written in 1939 with Rube Bloom, a jazz pianist and composer whose unusual 56-bar tune inspired Mercer to produce one of his most memorable—and passionate—lyrics.

Helen Forrest, the best of the big-band "canaries" of the swing era, worked with the orchestras of Artie Shaw, Benny Goodman, and Harry James. Her frankly emotional singing for James made her a star during World War II, but some listeners prefer the less overtly demonstrative style of her earlier work with the Shaw band. Though Shaw disliked pop singers, regarding them as nothing more than necessary concessions to mass taste, there is nothing remotely cynical about the crisply swinging, adeptly phrased version of "Day In-Day Out" he and Forrest recorded together in 1939 (*The Voice of the Big Bands*, Jasmine JASMCD 2545).



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20. **Judy Garland**: "The Man That Got Away." Music by Harold Arlen, lyrics by Ira Gershwin.

Many professional musicians believe Harold Arlen to be the most gifted of all pre-rock American songwriters. He was in no way a "composer's composer," having turned out such popular hits as "Over the Rainbow" and "That Old Black Magic." Even so, his sinuous melodies and jazz-flavored harmonies have a special appeal to musicians—particularly jazz musicians, who respond no less strongly to the rhythmic drive and dark-blue coloration of such Arlen classics as "Stormy Weather" and "Blues in the Night." Unlike most well-known composers, Arlen worked with a large number of leading lyricists, and his collaboration with Ira Gershwin on George Cukor's 1954 remake of *A Star Is Born* produced "The Man That Got Away," one of the greatest torch songs of all time. Arlen's highly chromatic tune inspired the sometimes superficial Gershwin to write what might well be his most heartfelt lyric.

The horrific story of Judy Garland's brutal apprenticeship as a child movie star—as well as the no less alarming tale of her drug-sodden decline—has obscured her considerable gifts as a singer-actress. A Jolsonesque belter who could also make the most of a ballad, Garland reached her artistic peak in the early 1950's. "The Man That Got Away" was written for her at that time, and the performance heard on the soundtrack of *A Star is Born* is her most fully realized recording. Though she was one of the few major American pop singers of her time to have been largely uninfluenced by jazz, she floats above Ray Heindorf's studio orchestra with all the fluidity and grace of a swing-era saxophonist. Others have sung "The Man That Got Away" well, but it will always belong to Garland (*A Star Is Born*, Columbia CK-44389).

21. **Johnny Hartman**: "Lush Life." Music and lyrics by Billy Strayhorn.

Throughout his too-short life, the composer-arranger Billy Strayhorn labored discreetly in the shadow of his illustrious employer and collaborator, Duke Ellington. Jazz scholars have lately begun to disentangle the work of the two men, with the result that Strayhorn is now acknowledged as a significant jazz composer in his own right—as well as one with a much more complete grasp of large-scale musical form than that of his self-taught mentor. Even during his lifetime, Strayhorn won recognition for a handful of songs and instrumental compositions, the most famous of which is "Lush Life," a 1939 song for which he also wrote the overripe but adequate lyric. The Ravel-like harmonic language of "Lush Life" speaks to jazz instrumentalists and musically secure singers alike, and since Strayhorn's death in 1967 it has become a popular standard.

Johnny Hartman was another ripe-voiced baritone in the Eckstine tradition who eventually developed a more personal style. The sardonic edge of his mature singing can be heard in the recording of "Lush Life" he made in 1963 with the quartet of the tenor saxophonist John Coltrane, one of the most influential working jazz groups of the 1960's. When not experimenting with avant-garde techniques, Coltrane was himself a superb balladeer, and this performance shows both singer and saxophonist at their most accessible (*John Coltrane and Johnny Hartman*, Impulse GRD-157).

22. **Dick Haymes**: "It Might as Well Be Spring." Music by Richard Rodgers, lyrics by Oscar Hammerstein II.

Richard Rodgers switched lyricists halfway through his career, when alcoholism and a disorderly private life rendered Lorenz Hart incapable of further collaboration. In 1943, with *Oklahoma!*, Rodgers and Oscar Hammerstein II changed the American musical permanently. Building on the earlier achievement of *Show Boat*, Hammerstein created the "integrated" musical, in which songs emerge seamlessly from the dramatic flow and help to move it forward. For all his dramatic shrewdness, however, he was a less sophisticated lyricist than Hart, and the songs he wrote with Rodgers have a very different flavor—more popular in tone, sometimes to the point of faux-naiveté. At their best, though, Rodgers and Hammerstein were capable of producing such genuinely poignant, open-hearted songs as "It Might as Well Be Spring," written for the 1945 film *State Fair*. Hammerstein's lyric is a gem, and Rodgers matches it with an al-fresco melody as lovely as anything he wrote for Hart.

Dick Haymes, a classically trained baritone who worked with Harry James and Tommy Dorsey before going solo, was universally admired for his ballads. He sang "It Might as Well Be Spring" in *State Fair*, and his 1945 recording is as unselfconscious as the song itself. But he topped it decisively a decade later, at a time when alcoholism was undermining his own once-spectacular career. In the version he made for Capitol in 1955, Haymes's voice is considerably darker in timbre, and the slower tempo permits him to phrase more imaginatively. (Johnny Mandel's exquisite arrangement is also a vast improvement on its predecessor.) No more purely beautiful ballad performance has ever been recorded (*Best of Dick Haymes*, Curb D2-77479).

23. **Woody Herman**: "I Hadn't Anyone Till You." Music and lyrics by Ray Noble.

Record collectors know Ray Noble as the leader of one of England's most urbane dance bands of the 1930's, but he also wrote the words and music for a handful of popular songs that have stood the test of time. The best of them—though not by much—is "I Hadn't Anyone Till You," a little masterpiece of adroit phrasing whose high quality



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leaves one wondering why Noble wrote so few songs. (The answer may lie in the fact that he became a popular radio personality after emigrating to the United States in 1935, stooging for the ventriloquist-comic Edgar Bergen.)

The clarinetist and saxophonist Woody Herman led one of the finest big bands of the 1940's, but he was also an immensely charming singer, comfortable with blues, novelty tunes, and ballads (he sang the vocal refrain on the first recording of David Raksin's "Laura"). In 1954 he recorded *Music for Tired Lovers*, an album of late-night ballads, accompanied by the Erroll Garner Trio, on which he can be heard singing a marvelously relaxed version of "I Hadn't Anyone Till You" (*The Jazz Swinger/Music for Tired Lovers*, Collectables Jazz Classics COL-CD-6679).

24. **Billie Holiday**: "You Go to My Head." Music by J. Fred Coots, lyrics by Haven Gillespie.

In addition to the handful of giants—the Berlins and Gershwins and Porters—the Great American Songbook also contains numerous works by talented journeymen who were occasionally visited by inspiration. One of them, J. Fred Coots, hit the bull's-eye twice, with "For All We Know," a World War II ballad, and "You Go to My Head," a torch song whose harmonic sophistication has long appealed to jazz musicians. Haven Gillespie's lyric for "You Go to My Head" is just good enough, but Coots's music is splendid—a reminder that more often than not, it is the composer and not the lyricist who spells the difference in the making of a standard.

By common if not universal consent the greatest of all jazz singers, Billie Holiday made the most of an inadequate instrument. Her small, raspy voice was narrow in range, forcing her to rework the melodies of most of the songs she sang—which she did with taste and endless resourcefulness. She was strongly responsive to lyrics, and her youthful singing combined joy and wistfulness to compelling effect. Later on, her interpretations grew more mannered, and a lifetime of dissipation caused her voice to disintegrate well before her death in 1959. But the recordings she made between 1935 and 1939, including a quietly winsome version of "You Go to My Head," remain nonpareil (*Lady Day's 25 Greatest 1933-1944*, ASV CD AJA 5181).

25. **Shirley Horn**: "Where Do You Start?" Music by Johnny Mandel, lyrics by Alan and Marilyn Bergman.

Johnny Mandel, who started out as a jazz trumpeter and big-band composer-arranger, eventually moved to Hollywood to write film music, in the process becoming one of the top songwriters of the 1960's. Though his best-known standard is "The Shadow of Your Smile," written for the soundtrack of *The Sandpiper*, a half-dozen of his other songs are performed nearly as often. Like Cy Coleman, another jazz musician turned songwriter, Mandel constructs his melodies out of short, riff-like phrases that he expands into cunningly balanced tunes. "Where Do You Start?," one of his most memorable, also has an excellent lyric by Alan and Marilyn Bergman, by far the most commercially successful of the limited number of older, tradition-conscious lyricists who have remained active to the present day.

The singer-pianist Shirley Horn, briefly popular in the early 1960's, suddenly won full-scale celebrity in 1992 with the release of *Here's to Life*, an album that teamed her with Mandel (who in addition to his songwriting and film scores has long been one of the most admired of vocal arrangers). Much like Billie Holiday, Horn has a technically limited voice, short-breathed and rough-surfaced, which she uses with uncommon sensitivity, favoring extremely slow tempos. Her interpretation of "Where Do You Start?" is masterly, at once understated and magnetically expressive (*Here's to Life*, Verve 314 511 879-2).

***To be continued***

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# Books in Review

## Reality Check

Bias:
A CBS Insider Exposes
How the Media
Distort the News
by Bernard Goldberg
*Regnery. 232 pp. $27.95*

Reviewed by
Dan Seligman

THE MOST interesting parts of this unexpected best-seller—in recent weeks, No. 1 on the *New York Times* nonfiction list—are its depictions of life inside CBS News. Also worthy of note, if not entirely unfamiliar, are the examples it offers of liberal bias in network news and other media. Far less successful are the efforts of the author, Bernard Goldberg, to make sense of what happened to him during his last four years as a news correspondent at CBS.

This was the period in which he suddenly went public with an assault on his longtime employer in the *Wall Street Journal*, was ostracized at the office and found his on-air appearances drastically curtailed, and eventually worked out a deal whereby he would formally remove himself from the CBS payroll as soon as his pension kicked in. In taking the reader through this sequence, Goldberg depicts CBS as violating "the spirit of free speech" and engaging in outright persecution. But you need not be a rabid liberal to develop a few counter-thoughts. Indeed, it is possible to agree enthusiastically with *Bias* about bias and yet come away wondering if its author's head is screwed on straight.

IT IS not hard to demonstrate that the media are biased, or that their politics are considerably to the left of American voters generally. Goldberg notes 1996 survey data (generated by the Freedom Forum and Roper) indicating that only 4 percent of journalists identify themselves as Republicans versus 50 percent as Democrats. In the 1992 presidential election, when 43 percent of the voters opted for Clinton, the corresponding figure for journalists was 89 percent. Poll data like these have been showing up for several decades (in 1972, McGovern, losing by a landslide, won a 70-percent landslide among media people) and will no doubt continue to do so.

Goldberg focuses on several varieties of bias at CBS News. One relatively minor problem, which nevertheless tells us a lot about network news writers, is the reflexive tendency to issue a kind of "warning" whenever the viewer is about to be exposed to a conservative thought. Case in point: a sequence on *CBS This Morning* wherein the host, moderating a discussion of sexual harassment, brought on stage "noted law professor Catharine MacKinnon and conservative spokeswoman Phyllis Schlafly." MacKinnon actually held an extremist position on harassment, having argued that all sexual intercourse involves coercion if not rape; it was telling, and unfair, that only her counterpart was given a political label. A parallel example, also cited by Goldberg: the network's recurrent tendency to introduce Robert Bork as a conservative thinker while invincibly liberal Lawrence Tribe is always a "Harvard law professor."

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Goldberg's best examples have to do not with the nuances of news-writing but with the editorial positions staked out by television news departments. Here the evidence is persuasive that they are not only left of center but prone to primitive, ritualistic versions of liberal thinking. During the 1980's, for example, the networks insistently editorialized that homelessness was something that could happen to anybody, black or white, rich or poor, and was a consequence of Ronald Reagan's lack of support for federal housing programs. The homeless persons shown on TV screens in support of this position invariably looked like middle-class folks down on their luck instead of like what homeless persons on the streets actually were—disproportionately poor and mentally ill. A similar distortion of reality informed the networks' long-running insistence that AIDS was a serious problem for ordinary middle-class heterosexuals (strenuously argued in a mid-1990's CBS program, *The Killer Next Door*) and not really centered in the worlds of homosexuals and intravenous drug users.

Stories of political correctness in the media are ubiquitous, horrifying, and occasionally hilarious, and Goldberg has a certain amount of fun with what he calls the Sensitivity Patrol at CBS. It registered heavy anxiety when a film team, sent to cover a hurricane in Jamaica, discovered belatedly that the associated looting—on an island that is 95 percent black—was the work of blacks. A story about two white men who kidnapped and brutally murdered a black man in Florida led to an in-house argument. The producers in New York said the victim had to be identified as "African-American." The reporters in Florida said he happened to be Jamaican, not American. New York said the story would not run unless he was labeled African-American; so he was.

Goldberg's own troubles with management began in February 1996, when he was already a moderately familiar face to viewers of CBS News, his employer of 25 years. At the time of his rebellion, the CBS evening news was featuring something called "Bernard Goldberg's America," which enabled him to preach a bit about non-hot-button issues like foolish government regulations and excessive commercialism in college football. Nothing exciting, but for him not a bad job.

But then Goldberg committed an act combining elements of civil disobedience, chutzpah, and wild improvidence: an op-ed piece for the *Wall Street Journal* titled "Networks Need a Reality Check." The piece zeroed in on a CBS feature called "Reality Check" that had recently ridiculed Steve Forbes's proposal for a flat tax. Strenuously talking back to the CBS commentator Eric Engberg (identified in the op-ed as "a longtime friend"), Goldberg argued that the commentary in question was biased and unfair, and that the bias was all too representative of his employer's output.

GOLDBERG'S ARGUMENT was utterly persuasive, yet his initiative has to be rated weird on several different counts.

Count No. 1: his stated reasons for publishing the article do not ring true. Goldberg tells us that for many years he had been complaining to his colleagues and bosses about the liberal tilt at CBS, that nobody had paid attention to his gripes, and that he delivered his op-ed broadside in an effort to make the network confront the issue honestly. But in his book, he has already observed—I am sure correctly—that the insular world of network television is populated by characters who go through life knowing mainly other liberals like themselves, and who tend to see their shared ideas not as controversial but as a kind of moderate, high-minded norm. So how could he possibly believe that his op-ed would spark a *debate*?

Count No. 2: Goldberg must have known that his surfacing on the *Wall Street Journal* editorial page would be viewed with extreme disfavor. It is unclear from his account whether he understands that all organizations, including the Girl Scouts and the Princeton Alumni Association, tend to resent it when privileged insiders take their grievances to the enemy camp. But he certainly understood that CBS News had a strong internal loyalty code.

In a passage early in the book that seems to have spun out of rhetorical control, Goldberg solemnly argues that the network's "News Mafia" operates just like the real mafia, in which insiders who blab to the wrong people get whacked. He compares his own loss of status at CBS, in the wake of the *Wall Street Journal* article, to the fate of Pussy Bompensiero in *The Sopranos*, who is shot on a boat, has lead weights attached to his body, and is then dumped overboard, all because he has been found to be talking to the FBI.

Goldberg cannot have been truly surprised to find that most CBS insiders viewed his behavior as beyond the pale. Andrew Heyward, head of the news division, went ballistic and screamed at him. Eric Engberg, for whom Goldberg summarized the article before it came out, crisply stated: "You're full of shit." Equally indignant but less crisp was Dan Rather, who was informed by Goldberg in a phone call about the upcoming article. "The Dan" (CBS lingo) responded that the news made him "viscerally angry," and then, voice quavering in Goldberg's account, added that earlier in his life he had signed up with the Marines, and not once but twice. The sequitur here is a bit elusive, but Rather seemed to be saying that it was outrageous to tag an ex-Marine as a liberal.



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Edited by Seth L. Wolitz

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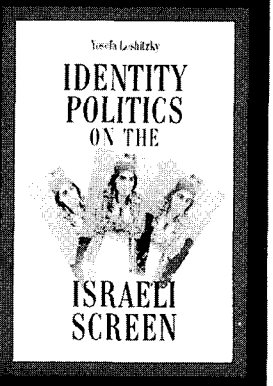


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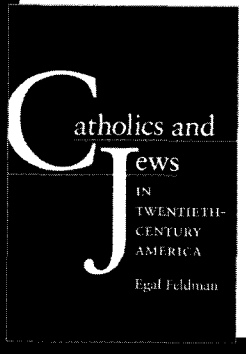


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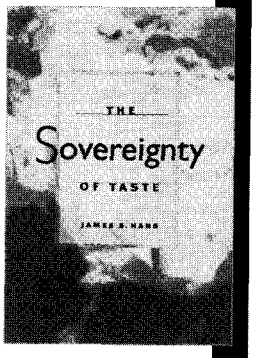


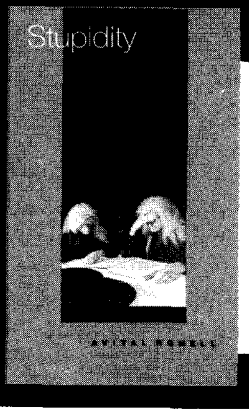


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Count No. 3: the same guy who was boldly kicking his employer in the shins was at the same time terrified that he might be canned:

> Even though I knew how unforgiving Dan might be, I sure as hell wasn't trying to be a martyr. I couldn't afford to lose my job over this, not with a mortgage, wife and kids . . . . CBS News was paying the bills, and I wasn't about to throw it all away because of a lousy piece on the evening news.

Luckily for Goldberg and his family, CBS News lacked the guts to fire him, and Goldberg himself opted against keeping the argument alive. ("If I had even tried, CBS would have fired me on the spot!") And so, until he had his pension locked in, he endured a certain degree of banishment, appeared only briefly on second-drawer shows, and unlike Pussy Bompensiero, continued to deposit his checks.

And now he has a best-seller. Only in America.

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## Free Thinker

Sakharov:
A Biography
by Richard Lourie
*Brandeis. 453 pp. $30.00*

Reviewed by
Aleksa Djilas

IN THE West, Andrei Sakharov is rightly considered one of the greatest Russians of the last century. A brilliant physicist who played a central role in developing the Soviet Union's hydrogen bomb in the early 1950's, he subsequently became a prominent critic of internal Soviet repression and external Soviet expansionism. The Communist regime persecuted him, but he courageously persevered in his struggle for human rights and freedom of speech and in 1975 was awarded the Nobel Peace Prize.

Since Sakharov's death in 1989 there have been no obstacles to interviewing people in Russia who knew him, and most archival material is accessible. And yet until now there has not been a biography in English. So there is special reason to be grateful to Richard Lourie, who has not only filled the gap but given us a vivid portrait of this moral and intellectual giant.

Lourie is a translator from Russian, the author of a book about Andrei Chikatilo, Russia's worst serial killer, as well as a novel about Joseph Stalin, Russia's worst mass murderer. While inquiring into the nature of radical evil, Lourie, who spent significant periods of time living in the Soviet Union, also sought the company of those who were resisting it. Many dissidents became his close friends, and he in turn helped them in their struggle, including by smuggling their manuscripts to the West. The KGB bestowed a badge of honor on him by briefly arresting him.

In this connection Lourie also got to know Sakharov and Elena Bonner, the physicist's second wife and indomitable partner in political opposition. He translated Sakharov's memoirs (1990) and has spared no effort in researching this biography, paying careful attention along the way to the broader canvas of the Russian tragedy in the 20th century. Indeed, the country itself emerges as the book's second hero—less admirable than Sakharov but no less fascinating.

ANDREI DMITRIEVICH Sakharov was born in Moscow in 1921 at a moment when Russia was still recovering from the ravages of the 1917 Bolshevik revolution and the subsequent civil war, events that, together with epidemics and famine, had taken some 15 million lives. His mother, the daughter of a czarist general and a graduate of a school for aristocratic young ladies, had quickly adapted her impractical education to modern times by becoming a teacher of gymnastics. His father was a physicist and a typical member of the Russian intelligentsia who conversed about poetry, philosophy, and music while struggling to survive and find food for his family. A successful teacher and popularizer of science, he lacked the aptitude for original research, but his exceptionally gifted "Andrusha" became his best pupil, who he hoped would one day realize the father's larger ambitions.

In high school and university, Andrei Sakharov immediately began to do just that, distinguishing himself in mathematics and physics. Former schoolmates recall to this day how he solved the most difficult problems with astonishing speed and in ways that were often incomprehensible, even mysterious. The young Sakharov emerges from Lourie's portrait as a true scientific genius, one who would have made a major contribution to his beloved field of theoretical physics had he not been impelled instead to become a maker of bombs.

Harder to discern in the young Sakharov was the future dissident who would openly challenge the leaders of one of history's most powerful and tyrannical empires. True, he did develop a strong sense of duty toward society and an indifference toward material success. And true, he was repelled by injustice: though physically weak (he had inherited a heart condition from his father) and clumsy (he never learned to swim or dance), he did not fear schoolyard bullies and stoically endured the deprivations of the 1930's. But many other schoolmates and fellow students possessed similar virtues, and

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ALEKSA DJILAS, *a writer in Belgrade, is the author of* The Contested Country: Yugoslav Unity and Communist Revolution, 1919-1953.



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none of them became a heroic rebel.

Neither, for a long time, did Sakharov himself. As a student he read the compulsory works by Marx and Lenin and was utterly bored by their primitive scientific concepts and simplistic theories. Still, he believed that the socialism being constructed in the Soviet Union was the wave of the future, for both Russia and the world. Though Sakharov never joined the Communist youth organization or became a member of the party, that was primarily, as he himself would later acknowledge, "for reasons of inertia."

After a period of stunningly innovative work in a munitions factory during the war, Sakharov returned to theoretical physics, only to be commandeered into nuclear-weapons research in 1948. Although not asked for his consent, Sakharov had no objections. He believed that the security of his country, which still lacked atomic weapons, could be ensured only through parity with the United States, which at that time already had some 56 bombs in its arsenal. Like most of his colleagues he worked toward this end with what he himself would later call "total absorption."

Russia's bomb makers inhabited a strange world ruled by Lavrenti Beria, Stalin's merciless chief of the secret police, the NKVD (later renamed the KGB). Their facilities were located in the middle of vast tracts of untamed land, surrounded by barbed wire and armed guards; wolves howled at night from the dense forests. Political prisoners—"long lines of men in quilted jackets, guard dogs at their heels," Sakharov later recollected—were used for construction and for mining uranium. Every scrap of paper on which something had been written was considered top secret by the ubiquitous NKVD, which put locks everywhere and ensured that the names of neighboring towns were removed from published maps of the Soviet Union.

Sakharov had several original ideas that led to a breakthrough in designing the hydrogen bomb. (Thanks largely to espionage, the Soviet Union had gotten the A-bomb in 1949.) On August 12, 1953, less than a year after the Americans successfully tested a thermonuclear weapon, the Soviets conducted their own successful test at a site in Kazakhstan. Igor Kurchatov, the chief of Soviet nuclear research, bowed to Sakharov on the spot and called him "the savior of Russia." In the same year, he was named a full member of the Soviet Academy of Sciences—at thirty-two, the youngest recipient of that honor in history. Medals and prizes followed, and Sakharov's life became, by Soviet standards, luxurious: a chauffeur-driven limousine, access to shops with Western goods, free holidays in resorts

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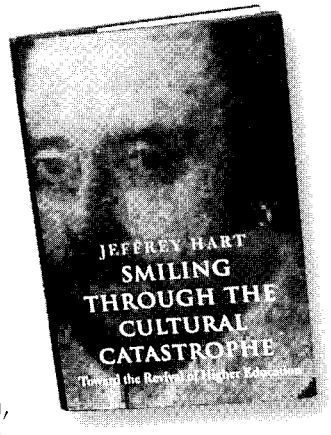


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reserved for the party elite. He was also happily married and a devoted (though often absent and absent-minded) father to three children.

But amidst the accolades and triumphs he was also developing doubts about the Soviet system. When Stalin died in March 1953, Sakharov's reaction was one of sorrow: "I am thinking of his humanity." Yet he could not forget what he had heard from older colleagues—the terrible truth about the pre-war collectivization of the peasants and the sweeping purges of the party, about concentration camps and execution dungeons. Meeting Beria face to face, he felt he was in the presence of a "terrifying human being."

Thus, when Nikita Khrushchev began his de-Stalinization campaign in the second half of the 1950's, Sakharov wholeheartedly supported it. He even began a campaign of his own—to defend science, "a keystone of civilization," from party coercion and from charlatans supported by ideologues. Genetics, in particular, had suffered under Stalin, with many scientists sent to camps or killed for defending modern Mendelian genetics against the Stalin-sponsored quack, Trofim Lysenko. Sakharov played an important role in convincing the party to return the laboratories to genuine scientists and allow them to establish contacts with colleagues in the West.

Sakharov's main concern in this period, however, was with the radiation released into the atmosphere during nuclear testing. For each megaton exploded, he calculated, some 10,000 people would die of cancer in the future, never knowing why. In 1961 he wrote to Khrushchev demanding an end to tests, on the grounds that they did not provide any new scientific data and could jeopardize disarmament and world peace.

With this letter Sakharov moved directly into the arena of Soviet foreign policy, an exclusive preserve of the party leadership. Khrushchev rejected his appeal and made it very clear that he had incurred official displeasure. But thanks to Sakharov's continuous scientific successes and the party leader's streak of decency, good relations were restored. Two years later the United States and the Soviet Union signed a treaty banning atmospheric testing, a life-saving agreement for which Sakharov deserved a significant share of the credit.

IN 1964, Leonid Brezhnev overthrew Khrushchev in a Kremlin coup. Over the course of the next two decades, Sakharov publicly protested the resurgence of Stalinism and the crippling censorship, calling for complete freedom of discussion and the free flow of information from the West. Imprisoned dissidents and their families could always count on him to sign petitions on their behalf. He also raised his voice for free Jewish emigration to Israel and for the return of the Crimean Tatars, expelled by Stalin to Siberia. He campaigned as well for protection of the environment and for an end to the death penalty.

Sakharov knew from the beginning that he would have to pay a price for giving voice to his conscience. By 1968 the KGB had put him under regular surveillance, and he slowly began to be stripped of his high positions in the scientific establishment. Many colleagues and friends avoided him. But he was not alone. Although his first wife, Klava, had died from cancer, he found companionship, loyalty, and support among fellow dissidents—"free thinkers" was the term he preferred—at least half of whom were mathematicians or scientists like himself.

Sakharov also became a writer of *samizdat*. His typed and retyped essays on the need for democratic reform circulated widely among the critical Soviet intelligentsia and soon found their way into the hands of the Western media and publishing houses. In its internal memoranda, the KGB referred to Sakharov as "Public Enemy No. 1" and sent him barely concealed "anonymous" death threats.

By the late 1970's he had become internationally famous and admired—not only the winner of a Nobel Prize but a recipient of international awards for human rights. Yet it was also becoming increasingly clear to him that the West was not about to modify its policy of détente with Brezhnev's regime or make any sacrifices in order to promote fundamental change in the USSR. Though increasingly pessimistic about the possibilities of such change, he never considered giving up the struggle.

Then, in December 1979, the USSR invaded Afghanistan. In interviews with Western media, Sakharov denounced the move as "expansionism" and demanded the immediate withdrawal of Soviet forces. Within a month, and without any legal process, Brezhnev had him and his second wife, Elena Bonner, exiled to Gorky, a center of military industry that was off-limits to foreigners.

On Bonner's advice, Sakharov made good use of the isolation to write his memoirs. KGB agents twice stole his manuscript, causing him immense grief, but Sakharov refused, as he put it, to allow them "to rob me of my memory," and each time started again from scratch. Ultimately, the completed memoirs were smuggled to the West and published.

In telling the story of his life, Sakharov did not try to conceal any of his former political illusions. But he differed from many other disenchanted believers in Soviet-style Communism by declining to indulge in soul-searching or self-flagellation. Nor did he speak of the Soviet leaders who were persecuting him with hatred or bitterness. He was, and came across as, a true man of the Enlightenment: serene and rational, turned toward the future and ready for pragmatic conciliation so long as it did not involve moral compromise.



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During the years of solitude and struggle in Gorky, Elena Bonner repeatedly demonstrated both her devotion to her husband and her own fighting spirit. When Sakharov first met this dark, handsome woman in 1970, she was a pediatrician, a divorced mother of two, and a veteran supporter of political prisoners. Possessed of a fiery temper, she could also be a more adroit political tactician than her cerebral and other-worldly husband. Since, formally, Sakharov alone had been banished, she was able to travel to Moscow, acting as an efficient and resourceful courier of his writings and messages.

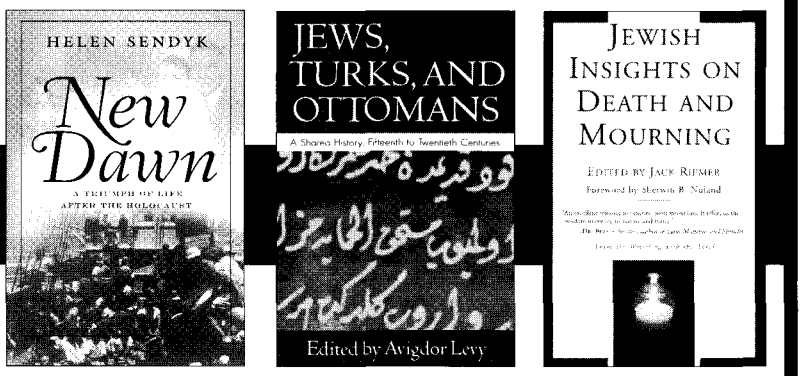
Bonner's father was Armenian and her mother Jewish, facts emphasized in the regime's propaganda, which insinuated that she was unpatriotic and a bad influence on the supposedly naive Sakharov. She was also out of favor among the more conservative and nationalist dissidents, the great Alexander Solzhenitsyn included. But they misunderstood the relationship between Sakharov and her, which was not primarily political. At heart it was as Bonner herself defined it: an "incredible, unimaginable human closeness that fate has bestowed upon Andrei and me."

In Gorky, Sakharov sometimes felt "like a mouse in a glass jar from which the air is gradually pumped." Though slim and frail, he went on several hunger strikes, the first time succeeding in gaining an exit-visa for Bonner's persecuted daughter-in-law. In another strike, Sakharov tried to prevent continued KGB interrogations of his wife, but was bound and force-fed in a painful and degrading way. Such battles made his heart weaker, and his general health deteriorated.

In February 1986, not long after Mikhail Gorbachev ascended to power in the Kremlin, Sakharov wrote him a letter demanding the release of prisoners of conscience. Gorbachev soon allowed the scientist to return to Moscow, and by April of the following year all political prisoners were free. In turn, Sakharov appealed to the West to support the new Soviet leader.

He was under no illusions: Gorbachev's stabs at change were cautious and limited. But in Soviet circumstances they represented a huge step forward. Nor, in embracing them, did Sakharov halt his own fight for a truly free Russia, even if it often meant clashing with Gorbachev himself. In April 1989 he was elected a member of the new parliament, where he was a frequent and influential speaker in the short interval before his death later that year.

In *Sakharov*, Lourie has written a highly intelligent and exceptionally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readable book. He not only captures his protagonist admirably but exhibits a fine feel for the social and political backdrop as well as for the peculiar mixture of fearful servility and courageous generosity of the Russian people. Among other things, he vividly brings to life how the Communist regime constrained scientists, sometimes even arresting and murdering them, while those who survived persevered in their work to achieve remarkable results.

WHERE LOURIE falls short is in offering an assessment of Sakharov's legacy. Did he influence Gorbachev's initial steps toward liberalization, as some Western scholars contend? Lourie is silent; but it would seem plausible enough that Sakharov's words, deeds, and suffering did serve to convince many people in the Soviet Union, not excluding members of the Communist party, that the Soviet system was bankrupt, a moral and spiritual dead end, and that democracy was the only way out. Nor, regrettably, does Lourie say a word about the way in which Sakharov and other East European dissidents reminded many people in the West of the crucial importance of the freedoms *they* enjoyed, took for granted, and often disdained.

Lourie does convincingly argue that Sakharov's early death at the age of sixty-eight was a great loss for Russia's democratic reformers, whose natural spokesman he was and whose unifying leader he might have become. Beyond that, it was a loss for humanity—and for how humanity thinks about itself and its place in the universe. For Sakharov, a scientific rationalist and an opponent of all dogma and fanaticism, was in the last years of his life developing a kind of gentle, open-minded religiosity, a belief that there is an inner meaning to nature and that there are spiritual forces not subject to physical laws. In a sense, his whole life was a corroboration of this belief.

## Bebop, etc.

A New History of Jazz
by Alyn Shipton
*Continuum. 965 pp. $35.00*

Reviewed by
Richard M. Sudhalter

WRITING A synoptic history of jazz these days has become an ever more daunting task as both the music and its audience continue their fragmentation into ever-tinier stylistic categories and segments. Beyond a handful of indisputably significant figures and ensembles, how is one to decide what is important and lasting within a form that has compressed centuries of variety and development into a single hundred-year span?

Perhaps the greatest risk in any such undertaking is the lure of subjectivity, the temptation to let personal taste govern the choice of subjects. The authors of the seminal pre-World War II work *Jazzmen*, for example, clearly believed that authentic jazz could be played only by small groups, and therefore pointedly ignored the big swing bands then dominating American popular music. In *The Making of Jazz* (1978), James Lincoln Collier struck the stance of an essayist rather than that of a chronicler or observer, while in *The History of Jazz* (1997), the pianist-composer Ted Gioia occasionally sacrificed depth in the interests of succinctness.

Probably the most effective historical panorama to date has been the massive *Oxford Companion to Jazz* (2000), a compilation of essays by 59 musicians and historians, cannily organized by the editor, Bill Kirchner, to allow points of both concordance and disagreement to emerge. But that was a collective effort. Alyn Shipton's huge *A New History of Jazz*, almost 100 pages longer than the Kirchner book, shoulders the task by itself. Its choices are, by turns, welcome and puzzling.

SHIPTON COMES well qualified to the job. As a presenter of jazz programs for the BBC, an occasional reviewer for the *Times* of London, and the author of several previous books on jazz, including an acclaimed biography of the trumpeter Dizzy Gillespie, he knows his field, and knows how to explore it. Better still, he is a part-time musician, having served as a bassist in various British "trad"-style bands. In this book he works chronologically, and ranges widely.

Thus, Shipton takes time for a full discussion of 19th-century Creole culture and other features of New Orleans life that predate but were central to the origins of jazz. He traces, for example, the "string bands" heard regularly at the homes and social events of the city's well-to-do; using research available since the 1970's, he also successfully humanizes the legend-encrusted New Orleans cornetist, Charles "Buddy" Bolden. But his partiality for early New Orleans music does not overwhelm his judgment: as he usefully reminds us, "many of the elements which went to make up jazz were also present in many urban areas of the United States, and a significant number of musicians, both black and white, adopted what they believed to be 'jazz' with little or no first-hand exposure to New Orleans musicians."

Shipton also delves into currents neglected in standard histories, among them the "Black Broadway" tradition of musical revues composed by such figures as Will Marion Cook and Paul Lawrence Dunbar, which enjoyed great popularity with turn-of-the-century white

RICHARD M. SUDHALTER, *a new contributor, is a jazz trumpeter and the author of* Lost Chords: White Musicians and Their Contribution to Jazz, 1915-1945. *His biography of Hoagy Carmichael,* Stardust Melody, *will be published by Oxford later this month.*



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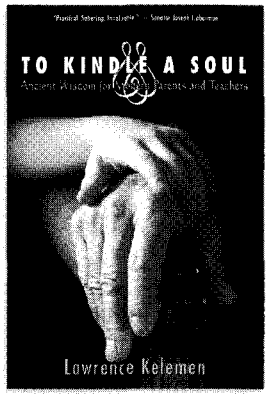
New York audiences. Elsewhere, taking on a controversial subject, he challenges the notion—a mantra today for the trumpeter Wynton Marsalis and others—that jazz is primarily an outgrowth of the blues, "and that the two genres are joined at the hip like Siamese twins." Although they may have intersected and overlapped, the evidence, Shipton shows, is that the two forms developed independently, and that the styles of more than a few major jazzmen reached maturity without noticeable blues content or affinity.

Shipton's thumbnail portraits of the pianists Earl "Fatha" Hines and Teddy Wilson (a chorus by the latter sounds to him "like a [Fats] Waller solo that has been on a slimming diet") are as vivid as anything in the literature, striking a useful balance between musician-speak and the language of lay readers. He is also informative in assessing such disparate early figures as the tenor saxophonist Prince Robinson and the widely admired trumpeters Johnny Dunn and Jabbo Smith; he astutely honors the vocal prowess of Cab Calloway; and he restores the bandleader, pianist, and songwriter Eubie Blake to deserved preeminence as a bridge between ragtime and jazz.

And yet, despite his breadth of vision, Shipton too often seems either a less than fully informed observer or a less than disinterested one. How else to explain, under the former heading, his omission of such crucial figures as the xylophonist-vibraphonist Red Norvo; the Casa Loma Orchestra, with its well-documented influence on the riff-based, big-band arrangements of the Swing Era; such singers as Mildred Bailey and the innovative Boswell Sisters; or the forward-looking drummer Dave Tough and the unconventional clarinetist Pee Wee Russell? How else to explain the book's countless small but telling factual errors?

Here are a few, noted at ran-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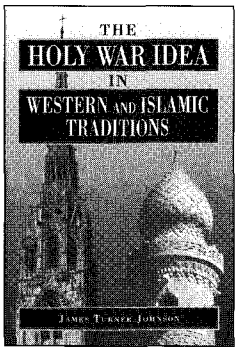


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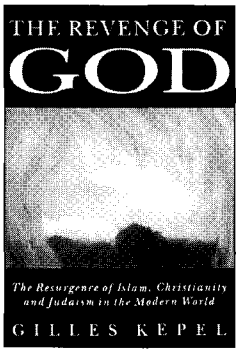


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dom: the landmark Frank Trumbauer-Bix Beiderbecke recording of "Singin' the Blues" was an extemporaneous performance, not an arrangement; Joseph "Fud" Livingston did not write the pop song, "Singapore Sorrows," but merely arranged it for Ben Pollack's orchestra; the pianist Lee Sims, far from obscure, was a nationally known radio performer; the Ramblers' Inn, home base for the California Ramblers, was not on Long Island, but in Pelham, Westchester County; the bassist Slam Stewart sang his bowed solos in octaves with his instrument, not in unison; "The Dixieland Band" was not "a piece written by [the arranger] Deane Kincaide" but a Johnny Mercer pop song, a hit of 1935; a vibraharp is not "a larger-scale version of the vibraphone" but the selfsame instrument, its name copyrighted by another company.

IN THE matter of critical disinterestedness, it happens that most of the musicians slighted by Shipton are white. This might lead one to think him guilty of the sort of reverse-racism typical of Marsalis and several other collaborators and on-screen presences in Ken Burns's acclaimed PBS series, *Jazz*.* If this is Shipton's bias, he does seem able to hold it in check long enough to deal equitably with Paul Whiteman, a musically aware and fair-minded man unjustly depreciated these days, and to give their due to the pioneer New Orleans bassist Steve Brown and other respected white figures. These include Artie Shaw, Dave Brubeck, George Shearing, Woody Herman's bands, and the circle of Los Angeles-area musicians, largely alumni of the Herman and Stan Kenton orchestras, who during the 1950's played regularly around a Hermosa Beach club called the Lighthouse. But here, as elsewhere, one detects a pervasive sense of obligation dutifully but equivocally met.

As I have already suggested, many of Shipton's critical evaluations are sound, and some are refreshing. It is good to read a keen appreciation of the John Kirby Sextet, a tightly-organized unit popular on 52nd Street in the late 1930's whose precise and imaginative arrangements deeply affected Dizzy Gillespie and other 1940's pioneers of bebop. Shipton rightly credits the composer George Russell as an all-important "catalyst for ideas in the United States and Europe," and pays just homage to Jimmie Lunceford's orchestra and the imaginative, powerful arranging of Gerald Wilson and Sy Oliver. He is also right to praise Bill Evans as one of jazz piano's "greatest innovators" (though in this connection he unaccountably ignores Nat "King" Cole and Erroll Garner).

Elsewhere, however, Shipton leaps too easily from well-defended opinion to oracularity. If the saxophonist and multi-instrumentalist Ornette Coleman really does rank alongside Louis Armstrong, Charlie Parker, Gillespie, Miles Davis, and John Coltrane as a key innovator, as Shipton asserts, it would be helpful to have been informed that a body of responsible opinion holds otherwise, and that the judgment of time is not yet in. Similarly, though Shipton is certainly entitled to tout some latter-day stylistic currents at the expense of others, he is inexplicably cavalier in dealing with those he finds wanting, for instance when he dismisses as "young fogey-ism" the dedication of many musicians in their twenties and thirties to prebop styles. This, coming from a writer-musician active in, and obviously loyal to, an even older, "trad" (for "traditional") style, is a strange view.

I have not mentioned Shipton's prose, which often recalls the German adjective *sachlich*—"matter-of-fact"—but with a distinct implication of pedantry. His headlong flow of ideas can produce epic run-on sentences, obscuring the very points they are meant to clarify, and his tendency to slip into the first-person pontifical lends his narrative an air of ex-cathedra self-importance. Other writers on jazz, notably the accomplished Gene Lees, also regularly insert themselves "into the frame," but Lees is a prominent lyricist who has often enjoyed close friendships with his subjects, whereas Shipton can claim no such authority.

But enough: no single writer on jazz should be expected to achieve an olympian breadth of appreciation, or to avoid fully the pitfalls of selectivity and prejudice. *A New History of Jazz* has its merits; unfortunately, it also has its distinctive and all too plentiful flaws.

* For a discussion, see Terry Teachout, "Jazz and its Explainers," in COMMENTARY, February 2001—ED.

## Leftover

Crashing the Party:
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Reviewed by
Jacob Heilbrunn

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JACOB HEILBRUNN *is a member of the editorial board of the* Los Angeles Times.



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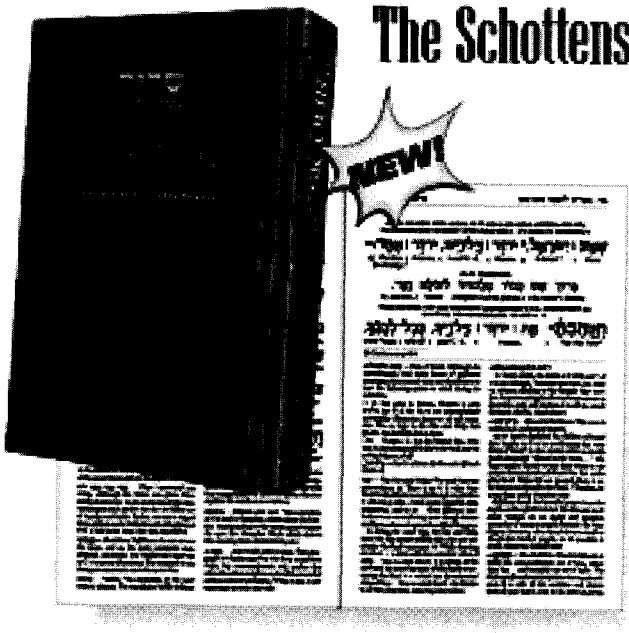


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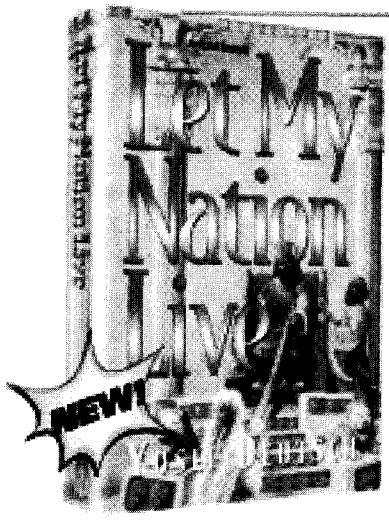


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called him the country's "toughest customer"—made him an inspirational figure among Democrats.

Until, that is, he ran in the 2000 presidential election as the candidate of the Green party. Stumping across the country, Nader made clear, to the horror of many of his longtime admirers, that he was targeting his biggest foe yet. It was not capitalism, a system he had previously described as flawed but now portrayed as inherently evil. It was, rather, the Democratic party, for capitalism's corporate "monsters," he insisted, controlled the government itself, including the White House of Bill Clinton and Al Gore.

*Crashing the Party*, Nader's account of his unusual foray into national politics, is part memoir, part manifesto. As a high-school student, Nader tells us, he had been riveted by stories about turn-of-the-century muckrakers like Ida Tarbell, Upton Sinclair, and Lincoln Steffens. His father often took him to watch trials at the county courthouse. "In my youthful idealism," he writes, "being a lawyer always meant representing the downtrodden, fighting for just causes, and laboring as a voice of dissent."

In the heady days of the 1960's, Nader was confirmed in his faith that, given sufficient political will and government funds, America could be radically transformed. Federal intervention could ameliorate—even solve—the country's consumer, environmental, and racial problems. Socially-conscious journalists pushed an ever-more ambitious agenda for change, and citizens began to take part in politics as never before. The U.S., as he saw it, was finally becoming a real democracy.

But even as progress was taking hold, Nader argues, a backlash was forming. In 1972, leading CEO's created the Business Roundtable to undermine and combat reform. This lobbying group soon became a shadow government, overwhelming the country's elected officials. The Carter administration managed to pass a few paltry laws helping labor, but with the election of Ronald Reagan, the Democrats lost their resolve. "Neo-liberalism" was born, another term for liberal flight. As money from corporate America poured into the party's coffers, Nader writes, Democrats retreated from their "progressive roots and then into an electoral tactic that argued for defeating Republicans by taking away their issues and becoming more like them."

With the rise of the Democratic Leadership Council, headed by Bill Clinton and funded by Wall Street entrepreneurs like Michael Steinhardt, the capitulation of the Democrats, as Nader sees it, was sealed. As President, Clinton was indistinguishable from a Republican. "The boy wonder from Arkansas," Nader complains, pushed through both NAFTA and the WTO—"corporate-inspired systems of autocratic government" whose passage represented "the greatest surrender of local, state, and national sovereignty in U.S. history." To this indictment, Nader adds that Clinton did nothing to protect the environment, failed to pass a program of national health insurance, undermined civil liberties by signing three crime bills, aided the malefactors of the telecommunications and agriculture industries, and handed over control of Congress to the Republican party.

IF NADER is withering on Clinton, he is even more severe on Al Gore. Gore's campaign failed, he argues, because the Democratic nominee was not more like, well, Ralph Nader. As a do-nothing Vice President whose specialty had been collecting corporate campaign contributions, Gore was crippled from the outset, unable to stand up to Bush or big business. Though he spoke in favor of the environment, small farmers, fair trade, and consumer protection, his record utterly belied his words.

Nader's own campaign was intended to offer an alternative to the corrupt system in which both of the major parties are now so deeply complicit. Like Henry Wallace in 1948, whose example he cites, Nader proudly called for universal health insurance, a higher minimum wage, and large cuts in the military. He denounced the corporate exploitation of the third world that goes by the name of globalization. Disdaining to point to imaginary foreign threats, he insisted that America could do far more for its national security by coming to the assistance of countries struggling against poverty and disease. To this end he decried American sanctions against Iraq and, with respect to the Israeli-Palestinian conflict, declared that the U.S. was "taking sides" and thus could not act as an honest broker.

Why did his campaign not succeed? As Nader sees it, the country remains in deep denial about its economic plight. Politicians are partly responsible for this state of affairs, but so too is the increasingly corporate-minded press. Assailing numerous journalists by name for failing to understand the importance of the issues he raised, Nader complains that they depicted his campaign as a kind of freak show. Their aim: to suppress legitimate dissent.

For all his gloom, however, Nader still believes that a significant mass of nonvoters is ready to follow a progressive third-party candidate. As he presents it, his campaign was just the first small stone in the avalanche waiting to bring down the Democratic party.

AS THE SUBTITLE of his book declares, Nader's campaign was based on the assumption that he, and he alone, could "tell the truth and still run for President." But this is more a tribute to Nader's vanity than an accurate assessment of his own candidacy. Even a cursory glance at his memoir shows it to be filled with self-serving myths about the Democratic party and, more important, about the American political and economic system itself.



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For a start, consider Nader's condemnation of the Clinton administration for failing to challenge big business and the Republicans on economic policy—and thus supposedly failing the poor and the middle class. The fact is that Clinton had a number of successes on the economic front precisely because he was able to curb the usual tendencies of the Democratic party, especially on deficit spending. He made it possible for Alan Greenspan to hold down interest rates. As a result, unemployment dropped to historic lows. The child-poverty rate sank. The budget went into surplus.

Even if Clinton had wished to confront the GOP, what would such a strategy have possibly accomplished, apart from stalemate? Following Nader's economic prescriptions would have made Clinton into another Jimmy Carter. It was no accident that Clinton was the first two-term Democratic president since Harry Truman.

Similarly, Nader's suggestion that the centrist Democratic Leadership Council has exerted a destructive influence on the Democratic party bears no relationship to political reality. The main reason Clinton and Gore were able to win the 1992 race against George Bush, Sr. was that they had convinced enough Americans they would not go down the party's old tax-and-spend road; they would not press for ambitious new social programs; and they would pursue a tough-minded foreign policy. (Leave aside what they actually did once in office.)

Still more pernicious, because of its apparent influence on today's street-rioting Left, is Nader's demonization of American capitalism. Corporations in the U.S. undoubtedly have great power and influence, but as the Enron debacle has shown, even the best-connected of them is hardly able, as Nader would have it, to direct government policy at will. Indeed, it was because Enron had made such large campaign contributions that the Bush administration took a hands-off attitude when the energy giant went under.

Nader's assault on globalization is no less misguided. Like most protectionists, he glides over the fact that countries like China, India, and Mexico have seen their standards of living soar as a result, in large part, of free trade. His notion that rapacious corporations are simply exploiting the suffering masses abroad is a relic of J.A. Hobson and other Marxist theorists of imperialism.

But then, for all his pretensions to clairvoyance about where America is headed, Nader offers an agenda with a rather musty smell about it. In his addled, noisy, and tedious memoir, he has tried to provide a roadmap to the future. Instead, he has created a compendium of the blinkered policies that have condemned the radical Left to political oblivion.

## Islamism, Inc.

American Jihad:
The Terrorists Living
Among Us
by Steven Emerson
*Free Press. 261 pp. $26.00*

Reviewed by
Terry Eastland

On September 11, Americans learned that international terrorists were living in their midst. The intrepid investigative journalist Steven Emerson knew this years earlier, as a result of his own inquiries. In *American Jihad*, a short but informative book, Emerson

Terry Eastland, *who served as director of public affairs at the Justice Department during the Reagan administration, is publisher of the* Weekly Standard.

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shows who the terrorists are, and how they operate.

On Christmas Day in 1992, as a staff reporter for CNN, Emerson was in Oklahoma City working on a story having nothing to do with terrorism. Looking for a place to eat, he passed a large group of men in Middle Eastern garb who were standing outside the city's convention center. Wandering inside, Emerson found vendors hawking books urging jihad and calling for the destruction of Christians and other infidels. A meeting of the Muslim Arab Youth Association was under way. Emerson made his way unobtrusively into the main hall where he listened to a series of unexpurgated calls for killing Jews and annihilating the West.

What amazed Emerson, as he recounts here, was that he was hearing all of this not in the Middle East but in middle America. The FBI, he subsequently learned from his sources in the agency, had not known about the gathering. Nor would it have conducted an investigation if it had known, since its mandate was to probe "criminal activity and not simply hateful rhetoric." Two months later, when the first World Trade Center bombing occurred, Emerson wondered whether what he had seen in Oklahoma City might somehow be connected to the attack.

To find out, he left CNN and, arranging with PBS to produce a documentary on radical Islam and domestic terrorism, started an investigative project that he still heads. "We discovered," he writes, that "international terrorist organizations of all sorts had set up shop here in America. They often took advantage of religious, civic, or charitable organizations"—fooling the public, police, and "naive leaders of religious or educational institutions" who sponsored such groups in the name of "multiculturalism" or "diversity."

PBS broadcast Emerson's *Jihad in America* on November 21, 1994. The documentary won several awards, but not before it had been assailed as biased and even "racist" by American Muslim organizations and some mainstream U.S. newspapers. Emerson himself became a target of verbal abuse at meetings similar to the one he had beheld in Oklahoma City. He tells of attending one Muslim convention where a speaker shouted, "Steven Emerson is the enemy of Islam! Are we going to let Steven Emerson tell us what to do?" "No," the crowd roared. "I sat there sweating," writes Emerson. "Thankfully, I had altered my appearance . . . [and] no one noticed me." Not long afterward, he was alerted by the FBI that a foreign Muslim group was plotting to kill him.

*American Jihad* zeroes in mainly on three international terrorist groups whose tentacles began to reach into the United States at least as early as the 1980's. These are Hamas, Islamic Jihad, and al Qaeda—the very same organizations singled out by President Bush in his State of the Union address this January and the last-named of which was responsible for the devastation of September 11. What Emerson shows is how they have operated on American soil: how they have recruited freely, focusing especially on persons bearing U.S. passports; how they have raised money; and how they have built clandestine networks in the service of planning mayhem and spilling blood.

Fundraising in the United States has been facilitated by the use of seemingly above-board organizations making seemingly above-board pitches—to help needy children, for example—the money from which has then been diverted elsewhere. A case in point is the Holy Land Foundation for Relief and Development based in Richardson, Texas, whose assets were frozen by the Treasury Department this past December after the FBI concluded that its funds had been used to support Hamas activities in the Middle East.



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# Arabian Fables (I)

## How the Arabs soften up world opinion with fanciful myths.

Josef Goebbels, the infamous propaganda minister of the Nazis, had it right. Just tell people big lies often enough and they will believe them. The Arabs have learned that lesson well. They have swayed world opinion by endlessly repeating myths and lies that have no basis in fact.

### What are some of these myths?

**The "Palestinians".** That is the fundamental myth. The concept of "Palestinians" is one that did not exist until about 1948, when the Arab inhabitants, of what until then was Palestine, wished to differentiate themselves from the Jews. Until then, the Jews were the Palestinians. There was the Palestinian Brigade of Jewish volunteers in the British World War II Army (at a time when the Palestinian Arabs were in Berlin hatching plans with Adolf Hitler for world conquest and how to kill all the Jews); there was the Palestinian Symphony Orchestra (all Jews, of course); there was *The Palestine Post*; and so much more.

The Arabs who now call themselves "Palestinians" do so in order to persuade a misinformed world that they are a distinct nationality and that "Palestine" is their ancestral homeland. But they are no distinct nationality at all. They are the same — in language, custom, and tribal and family ties — as the Arabs of Syria, Jordan, and beyond. There is no more difference between the "Palestinians" and the other Arabs of those countries than there is between, say, the citizens of Minnesota and those of Wisconsin.

What's more, many of the "Palestinians", or their immediate ancestors, came to the area attracted by the prosperity created by the Jews, in what previously had been pretty much of a wasteland.

The nationhood of the "Palestinians" is a myth.

**The "West Bank".** Again, this is a concept that did not exist until 1948, when the army of the Kingdom of Transjordan, together with five other Arab armies, invaded the Jewish state of Israel, on the very day of its creation.

In what can almost be described as a Biblical miracle, the ragtag Jewish forces defeated the combined Arab might. But Transjordan stayed in possession of Judea and Samaria and the eastern part of Jerusalem. The Jordanians expelled all the Jews from the area that they occupied, destroyed all Jewish houses of worship, and renamed as "West Bank" the territories that had been Judea and Samaria since time immemorial.

The attempt, quite successful, was to persuade an uninformed world that these territories were ancestral parts of the Jordanian Arab Kingdom (itself a very recent creation of British power diplomacy).

> "The web of lies and myths that the Arab propaganda machine has created plays an important role in the unrelenting quest to destroy the State of Israel. What a shame that the world has accepted most of it!"

Even after the total rout of the Arabs in the 1967 Six-Day War, in which the Jordanians were driven out of Judea/Samaria and of Jerusalem, they and the world continued to call this territory the "West Bank", a geographical and political concept that cannot be found on any except the most recent maps.

The concept of the "West Bank" is a myth.

**The "Occupied Territories".** After the victorious Six-Day War, during which the Israeli army defeated the same cabal of Arabs that had invaded the country in 1948, Israel regained possession of Judea/Samaria, which the Jordanians had illegally occupied for 19 years; of the Gaza Strip, which had been occupied by the Egyptians, but which had never been part of their country; and of the Golan Heights, a plateau the size of Queens, which, though originally part of Palestine, had been assigned to Syria by British-French agreement.

The last sovereign in Judea/Samaria and in Gaza was the British mandatory power — and before it was the Ottoman Empire. All of Palestine, including what is now the Kingdom of Jordan, was, by the Balfour Declaration, destined to be the Jewish National Home. How then could the Israelis possibly be "occupiers" in their own territory? Who would be the sovereign and who the rightful inhabitants?

The concept of "occupied territories" in reference to Judea/Samaria and Gaza is an Arab propaganda myth.

Unable so far to destroy Israel on the battlefield — though they are feverishly preparing for their next assault — the Arabs are now trying to overcome and destroy Israel by their acknowledged "policy of stages". That policy is to get as much land as possible carved out of Israel "by peaceful and diplomatic" means, so as to make Israel indefensible and softened up for the final assault. The web of lies and myths that the Arab propaganda machine has created plays an important role in the unrelenting quest to destroy the State of Israel. What a shame that the world has accepted most of it!

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Raising money is not the only purpose served by establishing "charitable" fronts. "By far the most important tactic" employed by terrorist groups, writes Emerson, has been the use of nonprofit and religious organizations to create "a zone of legitimacy" within which planning for illegal action can occur. Until recently, the FBI has been unable to penetrate this zone, "barred," as the *Washington Post* has reported, "even from collecting news clippings on such groups, unless they could show a crime had been committed." Under these circumstances, Emerson's own research has proved an invaluable resource. In the aftermath of September 11, his assiduously amassed files have been in great demand by law-enforcement officials and congressional investigators alike.

*American Jihad* is by no means a comprehensive treatment of the terrorist threat to America. Concentrating mostly on Islamist radicals, Emerson has little to say about other terrorist operatives working against us, including those in the employ of secular Arab regimes like Saddam Hussein's Iraq. Nor does he take up the complex question of how best to prevent terrorism and disrupt and finally destroy the groups responsible for it. Still, *American Jihad* is a valuable primer on the threat within our borders—and one that is both accurate and fair.

It is important to emphasize this last point because, ever since his 1994 documentary, Emerson has been the object of a denunciatory campaign as an anti-Muslim bigot and worse. In *American Jihad*, Emerson emphasizes that the problem he has identified is "confined to a relatively small slice of all American Muslims." But neither does he shrink from insisting that "mainstream" Muslim organizations take responsibility for what happens at their conferences and is issued in their name. It was, after all, Abdelrahaman Alamoudi, a founding member of the American Muslim Council, who at a demonstration in 2000 opposite the White House declared: "Hear that, Bill Clinton: we are all supporters of Hamas. *Allahu akhbar*. I wish to add that I am also a supporter of Hizbullah."

Groups that put incendiary speakers at their microphones or that permit themselves to be used by radicals bent on jihad, should be exempt neither from criticism nor from the scrutiny of the law. But the sad fact is that, for far too long, groups preaching hatred and violence have indeed escaped scrutiny. If Emerson's warnings had been heeded when he first issued them, our country might not be in the difficult straits in which it finds itself today.

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# The Palestinian Identity

**Robert Zelnick is a research fellow at the Hoover Institution and acting director of the Department of Journalism at Boston University.**

On a clear March night in 1986, accompanied by a young Palestinian lawyer named Jonathan Kutaeb, I drove from Jerusalem to Nablus to pay respects to the family of Zafir el-Masri. El-Masri had been assassinated by a Palestinian fanatic for daring to cooperate with Israel by serving as mayor of an important town. But the Palestinians attending his funeral treated him as a hero.

Because of his unique standing, the Israel Defense Forces held back, allowing the funeral to become an emotional display of national sentiment. Illegal Palestinian banners were waved wildly. Masked celebrants chanted their allegiance to the Palestine Liberation Organization (PLO). El-Masri's shroud was passed from hand to hand above a crowd pulsating with energy.

On the drive to Nablus, my friend Jonathan tried to put the significance of el-Masri's funeral into words. **"Palestinians have always relied on some outside force to deliver us from occupation.** First it was the pan-Arabism of Nasser and Assad. Then the Russians. Then the PLO from its bases in Lebanon. Then the Americans after Camp David. Now we know that by asserting our identity we must deliver ourselves."

When the first intifada erupted more than a year later, I was back in the states, covering the Pentagon. From afar, I felt great sympathy for the Palestinian people and little for Israeli settlement policies. Israel, in my view, had vital security interests in the West Bank and Gaza, the foremost of which was a Palestinian community that accepted Israel's right to exist. Settlements whose defense required a stifling, humiliating military presence were obstacles to real security.

Oslo would later seem a triumph of reason over ruin. The principle of mutual recognition could succeed selfish, destructive obsessions with national destinies Israel could return to its central mission of providing a haven for world Jewry while the Palestinians could build a nation reflecting their values and character

Instead, today there is heartbreak. And this time blame for the failure rests almost totally with the Palestinians. Yes, the settlements have expanded But this Palestinian uprising began as many settlements were being negotiated away by a prime minister who had staked his political life on true compromise.

Far more troublesome is the evident mentality of the Palestinian community. Does a man who blows his body to bits for the transcendent joy of killing a score of Jewish teenagers accept the humanity, let alone the statehood, of his victims? **When a third of all Palestinians identify the terrorist Hamas organization as their preferred political vehicle, are they ready to administer the holy city of Jerusalem side by side with Israelis?** When their teachers and mullahs argue the falsity of the Holocaust and the truth of the Protocols of the Elders of Zion, can one believe the Palestinians have any peace to trade for land?

As I recall the drive to Nablus nearly sixteen years ago, part of me still yearns for the Palestinians to affirm their identity. Another part of me fears they have already done so.

*— Robert Zelnick*

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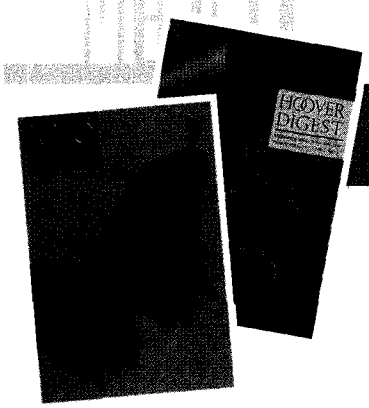


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A world of ideas on public policy.

# *In Defense of Global Capitalism*

***by Johan Norberg***

The current debate about globalization presupposes that the world is rapidly going to the dogs. In particular, the world is said to have become increasingly unfair. The chorus of the debate on the market economy runs: "The rich are getting richer and the poor are getting poorer." If anything, this is regarded as a dictate of natural law, not a thesis to be argued. Yes, the first half is true: the rich – not all of them everywhere, but generally speaking – have indeed become richer. But the second half is, quite simply, wrong. The poor have not, generally speaking, come to be worse off in recent decades. On the contrary, extreme poverty has diminished, and where it was quantitatively greatest – in Asia – many hundreds of millions of people have begun to achieve a secure existence and even a modest degree of affluence.

Between 1965 and 1998, the average world citizen's income almost doubled, from $2,497 to $4,839. For the poorest one-fifth of the world's population, the increase has been faster still, with average income more than doubling during the same period from $551 to $1,137. In China, the World Bank has spoken of "the biggest and fastest poverty reduction in history."

By the 1990s, when the Swedish author Lasse Berg and the film-maker Stig Karlsson returned to Asian countries in which they had travelled thirty years earlier, they could not believe how wrong they had been to view socialist revolution as the only way out of the misery they had seen on their earlier visit. In India and China, more and more people were extricating themselves from poverty, hunger, and insanitary conditions.

> ***The most important thing of all is liberty itself, the independence and dignity which autonomy confers on people who have been living under oppression***

The biggest change of all is in people's thoughts and dreams. Television and newspapers bring ideas and impressions from the other side of the globe, widening people's notions of what is possible. This development has resulted not from socialist revolution but, on the contrary, from a move in the past few decades towards greater individual liberty. International exchange and the freedom to choose have grown; investments and development assistance have transmitted ideas and resources. Benefit has been derived from the knowledge, wealth, and inventions of other countries.

Imports of medicines and new health care systems have improved living conditions. Modern technology and new methods of production have boosted productivity and improved the food supply. Individuals have become freer to choose their own occupations and to sell their products. Discrimination has been reduced, since global capitalism doesn't care whether the best producer is a man or a woman. Discrimination is expensive, implying as it does the rejection of certain people's goods and labor. We can tell from the statistics how these developments have enhanced national prosperity and reduced poverty. But the most important thing of all is liberty itself, the independence and dignity which autonomy confers on people who have been living under oppression.

Lasse Berg sums up the phenomenon thus: "It is not only inside China that a Chinese wall is now being torn down. Something similar is happening all over the world, in Bihar, in East Timor, Ovamboland. Human beings are discovering that the individual is entitled to be his own. This has by no means been self-evident before. The discovery engenders a longing, not only for freedom but also for the good things in life, for prosperity."

It is this mentality which must inspire optimism. We have not travelled the full distance; coercion and poverty still cover large areas of our globe. Great setbacks can and will occur. But people who know that living in a state of ignorance and oppression is not a natural necessity will no longer accept this as the only conceivable state of affairs. They will demand freedom and democracy. The aim of our political and economic systems should be to give them that freedom.

***Johan Norberg holds an MA in the history of ideas and is a leading protagonist in the Swedish debate on free trade and globalization. This article is extracted from his recent book, In Defence of Global Capitalism, published by Timbro (www.timbro.se).***

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